

EMPLOYEE RELATIONS MANUAL

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Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447

FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-1

Date: May 21, 1974

SUBJECT: State Employees Labor Relations Act

TO: All Holders of Employee Relations Manual

FROM: Governor Kenneth M. Curtis

Chapter 774, Public Laws - AN ACT EXTENDING COLLECTIVE BARGAINING RIGHTS TO STATE EMPLOYEES - is effective June 28, 1974.

With the passage of the "State Employees Labor Relations Act," new concepts and operating methods must be explored by agency heads, managers and supervisors in order to meet the challenges and opportunities presented by the collective bargaining process.

Between now and January 1, 1975, the date on which negotiations can commence, several vital decisions must be made regarding the State's policies on all phases of labor relations and the bargaining process, including unit determination, eligibility for membership in a bargaining unit and training.

Section 979-F of Chapter 9-B, R.S., T. 26, does not give voluntary recognition rights to agency heads; that right is vested with the "Public Employer," which is defined by Section 979-A, Paragraph 5, as meaning ". . . all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or his designee." This same paragraph further provides that "The Governor's office or its designee is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern."

I intend to establish shortly an Office of State Employee Relations within the Executive Department and appoint a Director who will be directly responsible to me for the implementation and administration of this Act for the State as a

whole as the public employer. Until then, you should not take any action under any provision of this Act.

It is my intent that the Director of the Office of State Employee Relations shall, on behalf of the Executive department, have final approval/disapproval in the matter of determining whether or not a proposed bargaining unit is appropriate from the public employer's point of view; therefore, in order to establish and maintain an efficient, coordinated collective bargaining program, Agency, Commission or Department Heads are not authorized to enter into voluntary recognition agreements with any organization or groups of employees proposing to represent a bargaining unit. Bargaining agents shall be determined by elections within appropriate units. Eventually, certification of duly-selected bargaining agents will be made by the Public Employees Labor Relations Board.

In addition, I request that you carefully study the attached copy of Public Law 774 and make additional copies available to your bureau and division chiefs, institutional heads, and other supervisory personnel within your jurisdiction. You and your management people have important responsibilities under this Act and should be aware of its import and the various rights and duties incumbent on you. I direct your attention to Sections 979-B, covering rights of State employees, and 979-C, covering prohibited acts of the public employer and State employees or their agents.

You should immediately begin considering who will not be covered by the Act in your agency – see Section 979-A, subsection 6. You should also begin examination of eligible State employees in your agency to determine who ought to be considered supervisory and who ought not under Section 979-E.

Additional guidelines and training sessions on the law will be provided as soon as possible.

KMC:js
Enclosures

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

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No.: OSER-2

Date: June 20, 1974

SUBJECT: Interagency Advisory Committee on Employee Relations

TO: All Holders of Employee Relations Manual

FROM: Governor Kenneth M. Curtis

I am establishing an Interagency Labor Relations Committee to advise me and my office on appropriate policies and guidelines made necessary by Chapter 744, An Act Extending Collective Bargaining Rights to State Employees. Because of the importance of this Act to State employees and State agencies, I am requesting that the following personally serve on the Committee:

Nicholas Caraganis, Director, Personnel
Dean Fisher, Commissioner, Department of Health and Welfare
William Kearns, Commissioner, Department of Mental Health and Corrections
Emilien Levesque, Commissioner, Department of Manpower Affairs
Roger Mallar, Commissioner, Department of Transportation
Carroll McGary, Commissioner, Department of Education and Cultural Services
Otto Siebert, State Budget Officer
Roberta Weil, Commissioner, Department of Business Regulation

Advice of other State officials will be requested when the committee is discussing areas of special interest to them.

KMC:gwd

IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL

STATE OF MAINE

Inter-Departmental Memorandum

Date: June 20, 1974

To: All Agency Heads Dept: _____

From: Governor Kenneth M. Curtis Dept: Executive Office State Employee

Subject: Inter-agency Advisory Committee on Employee Relations

OSER-2

I am establishing an Inter-agency Labor Relations Committee to advise me and my office on appropriate policies and guidelines made necessary by Chapter 744, AN ACT Extending Collective Bargaining Rights to State Employees. Because of the importance of this Act to State employees and State agencies, I am requesting that the following personally serve on the Committee:

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Otto Siebert, State Budget Officer

Advice of other State officials will be requested when the Committee is discussing areas of special interest to them.

KMC/gwd

Mrs. Roberta M. Weil, Commissioner, Department of Business Regulations was asked to serve on this committee effective August 13, 1974.

You should immediately begin considering who will not be covered by the Act. In your agency – see section 979-A, sub-section 6. You should also begin examination of eligible state employees in your agency to determine who ought to be considered supervisory and who ought not under section 979-E.

Additional guidelines and training sessions on the law will be provided as soon as possible.

KMC/js
Enclosures

Angus S. King, Jr.
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Kenneth A. Walo
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No.: OSER-3

Date: June 24, 1974

SUBJECT: Information Bulletin Regarding State Collective Bargaining

TO: All Holders of Employee Relations Manual

FROM: Governor Kenneth M. Curtis

At the present time, there are increased organizing activities directed toward State employees. You, as management, must be careful to give the same privileges and information to all groups and subject them to the same rules and restrictions.

POLICY OF FAIRNESS

It is, first of all, important that there be no favoritism between organizations seeking to represent State employees. The memorandum from the Director of personnel dated January 16, 1969, and Personnel Memoranda 7-73, dated April 13, 1973, and 17-73, dated October 3, 1973, will be helpful in this area (copies attached).

CENTRAL DISTRIBUTION OF PERSONNEL INFORMATION

It will be the responsibility of the Office of State Employee Relations to coordinate the collection and distribution of information about State personnel to recognized employee organizations. This information will include the department, class and range code, name, Social Security number, home address,

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL**

zip code and municipality of employment of each employee. This will require adding home addresses, zip codes and municipality of employment to the attached three-part machine run employee roster. Some additions and deletions may also be required.

The original should be returned to the Personnel Department by July 10, 1974. Then, you should consult Chapter 774, Section 979-A-6 and add an additional designation to the second part, indicating any employee who, in your judgment, will be an exception to the Chapter and your reason by referring to A through G of this Section. This second part should also be returned separately to the Personnel Department by July 12, 1974. The third part is to be retained for your own record. After a review is made, copies of the original will be made available for appropriate distribution.

USE OF PUBLIC FACILITIES

Requests for meetings in or on public property shall be granted under the same guidelines, procedures and restrictions as now exist. If a union organization, or employees seeking union participation, make such a request, they should be treated in the same manner that any other church or civic organization or non-official activity has been treated in the past. Any restriction or limitations upon activity by assembled group shall be continued, but every effort should be made to be consistent - not only with past decisions but with decisions relating to competing union groups.

Preferably, all such decisions should follow existing rules and regulations or written departmental policy. Where no written policy or rule exists, a request should be made to this office for determination. A written record of decisions and determinations should be maintained.

Enclosures

CAPITOL AREA SECURITY REGULATIONS

The undersigned, State Director of Public Improvements, being duly authorized by Section 1742-A of Title 5 of the Revised Statutes as enacted by Section 17-B of chapter 622 of the Public Laws of 1971, and with the approval of the Governor and the Commissioner of Finance and Administration, establishes the following regulations governing the use, occupancy and security of all parks, grounds, buildings and appurtenances maintained by the State, at the Seat of Government, at Augusta, Maine.

Section I. Definitions.

The following words and phrases, when used in these regulations, shall have the following meanings, unless a different meaning is plainly required by the context:

1. "Capitol Area" when used in these regulations shall mean the land, buildings, personal property and facilities owned, leased, occupied, used or possessed by the State in of at:
 1. The Capitol Area described in 1 M.R.S.A. Section 814, and
 2. The District Court Building on State Street, and
 3. The State Police Barracks and Garage on Hospital Street, and
 4. The Augusta airport, and
 5. The Blaine Memorial, and
 6. The Vickery and Hill Building.
2. "Time" whenever certain hours of time are named herein shall mean Standard Time or Daylight Time as may be in current use in this State.
3. "Mini-bike" shall mean any motor operated two-wheel vehicle not licensed by the Secretary of State, Div. of Motor Vehicles.
4. "Person" every natural person, firm, partnership, association or corporation.
5. "Police Officer" every officer of the Capitol Police, State Police, Augusta City Police, the sheriff or any of his deputies, or any other officer authorized to make an arrest for violation of law in Augusta.
6. "Snowmobile" means any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow supported in part by skis, belts or cleats.

Section II. Regulations.

1. The State Director of Public Improvements, the Superintendent of Buildings and Grounds, are empowered to close, secure and limit access to all or a portion of the Capitol Area at stated times during hours when the state offices are closed or, without prior notice, at any other time should a situation develop wherein all or a portion of the Capitol Area becomes jeopardized by the actions of any person or persons.
2. No person shall cause or participate in a demonstration of any nature in the Capitol Area unless written permission for such demonstration has been obtained from the Superintendent or Assistant Superintendent of buildings and Grounds. An application, in writing, setting forth information as may be required, is necessary prior to the granting of any permit.
3. No person shall cause injury or damage to the trees, shrubbery or flowers in the Capitol Area, or damage, mar or deface the buildings, personal property or facilities thereon in any way.
4. No person shall attach or place a handbill or advertising material on any vehicle parked in the Capitol Area.
5. No person shall allow a pet to enter the Capitol Area without a physical restraint.
6. No person, except a Police Officer on duty, shall carry firearms, dangerous weapons, explosives or incendiary devices in the Capitol Area, without a written permit issued by the Superintendent or Assistant Superintendent of Buildings and Grounds.
7. No person shall consume any intoxicating beverage in the Capitol Area.
8. No person shall discard litter, as defined in 17 M.R.S.A., Section 2263, subsection 2, in the Capitol Area except in the containers provided therefor.
9. No person shall, without the prior written authorization of the Superintendent or Assistant Superintendent of Buildings and Grounds, light or add fuel to an outdoor fire in the Capitol Area, except one which is confined to a fireplace furnished for that purpose by the Superintendent of Buildings and Grounds.

10. No person shall solicit, give away, canvass, sell or offer for sale items or materials, or make collections for past or current obligations in the Capitol Area without written authorization from the Superintendent or Assistant Superintendent of Buildings and Grounds.
11. No person shall operate a mini-bike or snowmobile in the Capitol Area.
12. No person shall utilize the Capitol Area for any type of sports or athletic events, either formal or informal, except in those sections designated by the Superintendent or Assistant Superintendent of buildings and Grounds.
13. Persons or organizations seeking to use a designated portion of the Capitol Area may obtain a written permit by applying, in writing, to the Superintendent or Assistant Superintendent of Buildings and Grounds and specifying the use intended and the persons responsible for the supervision of the activity.

Section III. Penalties.

Any person found guilty of violating any of these regulations shall, upon conviction, be punished as provided in Revised Statutes, Title 5, Section 1742-A Chapter 153, subchapter II as amended.

Dated this 1st day of November
1972 A.D., at Augusta, Maine

APPROVED:

/s/ Kenneth M. Curtis
GOVERNOR OF MAINE

/s/ M. F. Williams
Commissioner of Finance and
Administration

/s/ Niran C. Bates
State Director of Public
Improvements

Attest::

/s/ Joseph T. Edgar
Secretary of State

(seal)

STATE OF MAINE
Department of Personnel

October 3, 1973

PERSONNEL MEMORANDUM 17-73

To: Chief Executive, All Department/Agencies, Etc.

Subj: Organizations representing employees.

Particularly during recruitment drives sponsored by organizations representing employees, it is not unusual that supervisory-level personnel may be charged, very often without justification, with discrimination, favoritism, harassment or other practices which would tend to influence the decision of an employee to join or not join such organizations.

By law, employees have a right to organize and to join or not join, without interference.

It is equally important to point out that such recruitment drives, or volunteer work for an organization performed by members, should take place during other than normal working hours, and that activities should not interfere with the normal transaction of state business. The statutes provide for visitations by organization representatives under certain circumstances. In these instances it is, of course, expected that arrangements for visiting will be made with appropriate officials of the department involved.

This memo is a reminder that memoranda on this subject have been issued by this office, specifically in Interdepartmental Memorandum from the

Director of Personnel, dated January 16, 1969, and personnel Memorandum 7-73, dated April 13, 1973.

It is requested that all supervisory personnel be made aware of these memoranda, and that they be reproduced and posted on each bulletin board within your jurisdiction.

NICHOLAS L. CARAGANIS
Director of Personnel

sb

MAY BE REPRODUCED LOCALLY TO MEET DISTRIBUTION NEEDS

STATE OF MAINE
Department of Personnel

April 13, 1973

PERSONNEL MEMORANDUM 7-73

To: Chief Executive, All Departments/Agencies/Etc.

Subj: Orientation of Employees - Employee Representative Organizations

Until such time as any one or more employee representative groups has/have been legally certified as the bargaining agent(s) for employees in a bargaining unit or for all employees in the State of Maine's classified service, the decision of joining, or not joining, any or all of the employee representative groups is a matter of individual choice. To this extent, neither the appointing authority nor his designated representative shall use his/her official position to influence such a decision.

Currently there are two principal organizations with which employees may become associated—The American Federation of State, County and Municipal Employees (AFSCME, AFL-CIO) and the Maine State Employees Association (MSEA). There could be more; the issue is not numbers but how best to inform an employee, particularly a new one, as to what may be available without running the risk of being accused of favoring one organization over the other(s).

Hence, the following procedure is suggested:

PERSONNEL MEMORANDUM 7-73

April 13, 1973

- No indication, implied or stated, will be made to encourage or dissuade the individual from his/her decision to refrain from or becoming associated with any employee representative group.
- When orienting an individual, especially as pertains to benefits, responsibilities, rights, etc., as a state employee, he/she be made aware of the privileges, benefits, etc., that are available but not directly attributed to the State. (Appendix A may be reproduced or used as a sample thereof.)
- Individuals be informed that contact is to be made directly to addressees, or with organization local representative at times other than normal duty hours.
- Promotional, educational, informational and other material supplied by employee representative groups be given equal exposure as local office bulletin boards, tables, racks, etc., can accommodate.
- Employee representative groups be advised that displayed/posted material, except for that identified as "permanent," will be removed upon expiration date of cited event, or after thirty days, whichever occurs first.

Your immediate attention and cooperation to this rather sensitive matter
will be greatly appreciated.

NICHOLAS L. CARAGANIS
Director of Personnel

APPENDIX A

sb

MAY BE REPRODUCED LOCALLY TO MEET DISTRIBUTION NEEDS

APPENDIX A TO PERSONNEL MEMORANDUM 7-73

To: Employees

The following organizations are available to assist you or provide benefits available to you:

Council #74, AFSCME, AFL-CIO
16 Bangor Street
Augusta, ME 04003
Tel: 622-6191

Maine State Employees Association
65 State Street
Augusta, ME 04330
Tel: 622-3151

Income protection is available through both of the employee representative groups.

Maine State Employee's Credit Union
State House Complex
Augusta, Maine 04330
Tel. 289-3341

*State Employees Appeals Board
85 Exchange Street
Portland, Maine 04111
Tel: 772-2848

*For grievance appeals other than those involving position classification and pay. Normally, pertinent information will be made available during the initial first four steps of appeal procedure from employing agency.

For additional information regarding any of these organizations, please make inquiry directly to the organization or local representative.

MAY BE REPRODUCED LOCALLY TO MEET DISTRIBUTION NEEDS

STATE OF MAINE

Inter-Departmental Memorandum

Date: January 16, 1969

To: All Department & Institution Heads Dept. _____

From: Willard R. Harris, Director Dept. Personnel

Subject: _____

It has been brought to the attention of the Personnel Board that, in some instances during the orientation and processing of new employees, there may be subtle influence or implied pressuring exerted to direct attention toward joining certain organizations representing employees. It is felt by the Board that any such action is not in the best interest of the State, as it may tend to give the new employee the impression that this represents an official request or attitude.

Therefore, it is strongly urged by the Personnel Board that those individuals engaged in the orientation and processing of new employees be instructed to not, in any manner, indicate discrimination or partisanship regarding the joining of any of the organizations which may be representing state government employees.

New employees having questions regarding any of these organizations should be advised to make inquiry directly to the organization (s).

WRH/jb

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

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No.: OSER-4

Date: October 11, 1974

SUBJECT: Office of State Employee Relations

TO: All Holders of Employee Relations Manual

FROM: Governor Kenneth M. Curtis

In my memorandum to you of May 21, 1974, (OSER-1), I stated that I intended to establish an Office of State Employee Relations within the Executive Department, and appoint a Director who would be directly responsible to me and serve as my designee pursuant to Section 979-A.5 of the State Employees Labor Relations Act. As previously announced, Mr. Lanning S. Mosher has been appointed as Director, Office of State Employee Relations, and is designated to represent me as the public employer in implementing and administering the Act.

The Director, Mr. Mosher, will be assembling information required for the determination of bargaining units, and to prepare for negotiations which will follow the recognition and certification of bargaining agents. You are requested to provide Mr. Mosher with such assistance, services and data as may be necessary for the State to meet its obligations under the Act.

Further communications concerning the implementation of the State Employees Labor Relations Act will be issued by the Office of State Employee Relations.

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL**

Angus S. King, Jr.
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No.: OSER-5

Date: October 23, 1974

SUBJECT: Employee Organization Activities

TO: All Holders of Employee Relations Manual

FROM: Lanning S. Mosher, Director

State officials and employee organization representatives have raised questions concerning employee organization activities in the period prior to the determination of bargaining units and the recognition or certification of bargaining agents. This memorandum outlines the State's policy for this period and supersedes OSER-1 and OSER-3. If elections to determine bargaining agents are scheduled by the Maine Public Employees Labor Relations Board (PELRA), appropriate information concerning the conduct of such elections will be issued.

State Objective

It is public policy under the State Employees Labor Relations Act: “. . . to promote the improvement of the relationship between the State of Maine and its employees by providing a uniform basis for recognizing the right of Stae employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.” (Section 979.)

Protected Employee Rights

Towards this end, the Act confers certain rights to State employees, “. . . voluntarily to join, form and participate in the activities or organizations of their own choosing for the purposes of representation and collective bargaining . . .,” and protects these rights, in general terms, “No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against

State employees or a group of State employees in the free exercise of their rights . . . under this chapter,” and by specifically prohibiting

Angus S. King, Jr.
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No.: OSER-6

Date: January 22, 1975

SUBJECT: Collective Bargaining

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

Effective January 1, 1975, the State, as an employer, became obligated to bargain collective with bargaining agents with respect to wages, hours and working conditions under the terms of the State Employees Labor Relations Act, Title 26, MRSA, Chapter 9-B.

Pending the establishment of a pppropriate bargaining units and the recognition or certification of bargaining agents, this office should be consulted prior to implementing any changes in wages, hours and working conditions so that we may avoid committing any acts prohibited by §979-C of the Act or otherwise contravene the legislative purpose of the Act.

The provisions of my memorandum of October 23, 1974, concerning Employee Organization Activities (OSER-5) continue in effect.

Please circulate copies of this memorandum to bureau chiefs, institution heads and others who may be affected.

LSM:b

IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS MANUAL

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No.: OSER-7

Date: February 24, 1975

SUBJECT: Demonstration in Support of Wage Increase

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

We have received copies of a handbill distributed by the American Federation of State, County and Municipal Employees, AFL-CIO, announcing that they intend to demonstrate at the State House on March 18 in support of a cost of living increase.

Employee requests for time off to participate in this demonstration should be treated as requests for time off charged against annual leave credits. Administrative leave (release from work without charge to accrued credits) is not available for this purpose. Requests for time off should be submitted in advance and supervisors may approve such requests provided that the resulting absence will not interfere with the operational requirements of your department.

LSM:b

All Employee Organizations

IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS MANUAL

Angus S. King, Jr.
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DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

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No.: OSER-8

Date: March 6, 1975

SUBJECT: Public Demonstrations by Employees

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

The Maine State Employees Association has announced plans to conduct public demonstrations in the Capitol Complex on March 13, 1975. Other employee organizations may, from time to time, conduct similar demonstrations-.

The policy concerning time off for such demonstrations will be the same as stated in OSER-7, dated February 24, 1975, which dealt specifically with the announcement by the American Federation of State, County and Municipal Employees for a demonstration on March 18, 1975. Any deviations from this general policy will be covered in special memoranda.

The State's policy remains:

Employee requests for time off to participate in such demonstrations should be treated as requests for time off charged against annual leave credits. Administrative leave (release from work without charge to accrued credits) is not available for such purposes. Requests for time off should be submitted in advance and supervisors may approve such requests provided that the resulting absence will not interfere with the operational requirements of the department.

LSM:b

IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS MANUAL

Angus S. King, Jr.
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Kenneth A. Walo
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No.: OSER-9

Date: July 1, 1975

SUBJECT: Strikes or Other Work Stoppages and Picketing by State Employees

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

It is the State's policy to conduct its relations with employees and organizations representing them honestly and in good faith, addressing problems on their merits, balancing the interests of the employees, the specific public served by the programs involved, and the taxpayers in general. It is our objective to implement this policy in such a way that resorting to strikes or other pressure tactics is unnecessary. Nevertheless, State management should be prepared to handle strikes work slowdowns and other work stoppages, which are expressly proscribed as illegal under the Maine State Employees Labor Relations Act, if they occur.

This bulletin provides the general guidelines to be followed by State managers and supervisors in the event that strikes or other concerted job actions are threatened or actually occur.

Definition of a Strike

A strike occurs when a group of employees engages in any one of several concerted activities which results in their either refusing to work or not performing their normal work at their regular pace. This could be the result of an outright refusal to come to work, by their refusing to cross picket lines, by an organized "sick out," by refusing overtime, by interrupting operations, by "working to rules" or through other forms of "job actions."

Reporting Rumors

Supervisors hearing rumors of a planned strike or other concerted job action should find out the reason for the threatened action and caution the employees involved that concerted action is not the way to bring their problems to management's attention. Employees should be advised to take the matter up with appropriate management representatives by requesting a meeting or filing a grievance. Communicate the information learned to your institution, regional or unit director, who will inform the central office and the Office of State Employee Relations. If he or she is not available, report the information to your central agency's personnel officer or administrative director.

Handling Actual Work Stoppages

If a strike or other interruption of work occurs , management and supervisors should:

1. Politely, but firmly, inform the employees that resorting to a strike is unnecessary and that they should return to or continue work and file a grievance concerning their problems, or request a meeting with management. They should be advised that their participation in a strike may result in disciplinary action, including possible discharge.
2. Make certain that the agency head and the Director of State Employee Relations are informed immediately.
3. Keep accurate records of which employees participate in the strike or other job action, and exactly when such activity starts and ends.
4. Employees who are at work when a strike commences should be directed to remain at work and cautioned that their refusal to remain at work will be considered participation in the strike and may result in disciplinary action, including possible discharge.

Special arrangements should be made for the relief of any employee who remains in a State facility to cover work assignments during any protracted strike or work stoppage.

5. A responsible official or officials should be assigned to observe any picketing **or** other concerted Activity, and he or she should keep an accurate log of any disturbances which may occur and those individuals directing or involved in such activities.

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MANUAL**

Picketing

Any picketing, even if it appears to be only informational, on or near State facilities by employees, their agents or others, should be reported immediately as prescribed above and an accurate log kept of the activities and persons involved.

LSM:b

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-10

Date: October 24, 1975

SUBJECT: Representation in Grievance Procedures

TO: Department and Agency Heads

FROM: Lanning S. Mosher, Director

Chapter 63 of the Personnel Law spells out the procedures for State employee grievances. Section 753 states that "an employee aggrieved, or his representative, or both, shall attempt to adjust the dispute through oral communication with the employee's immediate supervisor..." The law also provides for the aggrieved employee to be represented at succeeding steps of the grievance procedure.

We have recently been informed of requests from supervisors to have a representative of their employee organization present when they are hearing a grievance submitted by a subordinate. Supervisors handling grievances submitted by subordinates are acting in management's behalf and should not be represented in that process by an employee organization representative. Representation for supervisors is not provided for in the law, is not consistent with the supervisor's responsibilities, and should not be permitted. It is the supervisor's job to respond to and take appropriate action within his or her authority on grievances submitted by subordinates. The only time a supervisory employee would be entitled to representation would be when he or she is the aggrieved employee.

Management should take appropriate action to see that these procedures are adhered to at all times.

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MANUAL**

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-11

Date: December 24, 1975

SUBJECT: Unit Hearings

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

The State is currently involved in hearings before the Maine Labor Relations Board to resolve the dispute between the State and petitioning employee organizations over the composition of bargaining units for State employees. It is in our best interests to cooperate with employee organizations, provide them information necessary to conduct these hearings, and to release a reasonable number of necessary employees to appear as witnesses. However, to ensure that our policy is implemented with a minimum of inconvenience and confusion to State management, we have set up two procedures with employee organizations of which you should be aware.

(1) Requests for Information. We have asked each employee organization to direct any requests for information to this office. We will then, in turn, contact agencies as necessary. The purpose of this procedure is to ensure that information is provided in a form which will meet the needs of the employee organizations without any duplication of State effort. It is possible that employee organizations may ask for something in a form not readily available in one area, but which exists in a satisfactory form somewhere else, and both the employee organization and the State will benefit by having requests directed through this office. If you receive requests directly from the employee organizations or representatives of employee organizations, please refer them to Mr. Roland Nichols of this office.

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(2) Employee Witnesses. It is our policy to release a reasonable number of necessary witnesses needed by employee organizations to present their case to

the Board without charge to leave credits. We have asked employee organizations to submit names and work locations of any employees needed as witnesses to this office one week prior to the date of the hearing at which they are expected to testify so that we may arrange for their release. Our policy is only to prevent an employee from losing pay as a result of appearing as a witness and we will , therefore, not consider the time spent at such hearings outside of regular working hours as time worked for pay or overtime purposes, and there will be no compensatory time off granted for time spent in such hearings outside of normal shift hours or on vacation or pass days.

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-12

Date: February 24, 1976

SUBJECT: Proper Conduct of Grievance Administration

TO: Department and Agency Heads

FROM: Lanning S. Mosher, Director

The Maine State Employees Association recently filed a complaint with the Maine Labor Relations Board on behalf of a State employee, alleging that a State department and its supervisory personnel had committed an unfair labor practice by discriminating against that employee because he had filed a grievance in accordance with 5 MRSA, Section 751, et seq. Following a thorough investigation of the facts, and after discussion with the employee's designated representatives, it was agreed by the parties that the complaint would be withdrawn and that this OSER bulletin would be distributed.

Because of the fine distinction which sometimes exists between permissible and improper or illegal action by State managerial and supervisory personnel-, and because of the sincere desire of the State to comply with the State Employees Labor Relations Act and avoid unnecessary prohibited practice complaints, the following amplification upon guidelines contained in previous OSER bulletins is being distributed.

Managerial and supervisory personnel have an obligation to avoid interfering with employees' rights to engage in employee organization activities provided by the State Employees Labor Relations Act. To this end the supervisor must have a thorough understanding of employee rights and must be fully aware of 'the actions prohibited by the State Employees Labor Relations Act. Please
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review, in particular, OSER Bulletin 5 and Sections 979-B and 979-C of the Act (attached). In all dealings with employee representatives and in all personnel actions, supervisory and managerial personnel have a responsibility to ensure that their actions are in accordance with the guidelines distributed by this office and do not constitute prohibited practices as outlined in the attached material.

Specifically:

A. No action should be taken which could be misconstrued as retaliation for exercise of employee rights, e.g., the filing of grievances or participation in union activities. You cannot threaten to take disciplinary action or lay off an employee because he has filed a grievance or participates in proper employee organization activities; nor can you promise or give favorable treatment to an employee for refraining to engage in the proper exercise of his rights to participate in employee organization activities.

B. Any action which may be interpreted as an attempt to persuade an employee organization not to represent an employee in grievance proceedings should be avoided. In discussing grievances with employee organization representatives, you may express your views on the merits of a grievance, even state that you think that the grievance is a waste of their time, but you cannot take action which interferes with the employee's right to process his or her grievance.

This is not a directive to ignore your management responsibility or to avoid taking necessary and appropriate actions. However, any supervisor or member of management who is required to take action in a situation which he believes may be questioned as complying with the law is encouraged to consult with this office before taking such-action.

Attachment

STATE EMPLOYEES LABOR RELATIONS ACT

Section 979-B. Right of State employees to join labor organizations.

No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against State employees or a group of State employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Section 979-C. Prohibited acts of the public employer.

1. Public employer prohibitions. The public employer, its representatives and agents are prohibited from:

- A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in Section 979-B;
- B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment;
- C. Dominating or interfering with the formation, existence or administration of any employee organization;
- D. Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
- E. Refusing to bargain collectively with the bargaining agent of its employees as required by Section 979-D;
- F. Blacklisting of any employee organization or its members for the purpose of denying them employment.

S T A T E O F M A I N E
I N T E R - D E P A R T M E N T A L
M E M O R A N D U M

**Bureau of Employee Relations
State House Sta. #79
Augusta, ME 04333**

**Tel. (207) 287-4447
FAX (207) 287-4452
TDD (207) 287-4537**

March 22, 1976

TO: All Holders of OSER Manuals

FROM: Lanning S. Mosher, Director, State Employee Relations

SUBJECT: Notice to All State Employees – Threatened Illegal Strike

Enclosed with this memorandum is a notice to all State employees which should be posted on bulletin boards in work locations to ensure that all employees have an opportunity to read it as soon as possible.

We have distributed this to all holders of our manuals rather than distributing it exclusively to agency heads to minimize the time necessary to reach all State employees.

We do not believe that State employees, the large majority of them, are interested in strike, sick-out or other illegal concerted activity at this time, and hope that no such action will occur.

LSM:b

Enc.

cc: Governor Longley

STATE OF MAINE

INTER-DEPARTMENTAL MEMORANDUM

**Bureau of Employee Relations
State House Sta. #79
Augusta, ME 04333**

**Tel. (207) 287-4447
FAX (207) 287-4452
TDD (207) 287-4537**

TO: All State Employees

FROM: Lanning S. Mosher, Director, State Employee Relations

SUBJECT: Threatened Illegal Strike

IMPORTANT NOTICE TO EMPLOYEES

There is much talk of a strike of State employees despite Maine employees' well-deserved and pre-eminent reputation for service to the public. While I am confident that State employees will stay at their posts during this time of stress, as they have in the past, this notice briefly outlines the provisions of Maine State law applicable to illegal strike activity so that you may protect yourself against actions which would inadvertently place you in violation of the law.

The State Employees Labor Relations Act prohibits any, public employee or employee organization from engaging in or causing, instigating, encouraging or condoning a strike. Section 979-C of Title 26 of the Maine State law specifically states "State employee organizations, their agents, members and bargaining agents are prohibited from engaging in a work stoppage, a slowdown or a strike." The law further states "violations of this section shall be processed by the board in the manner provided in Section 979-H." Employees and employee organizations who participate in strikes or other job actions subject themselves to possible legal proceedings, including injunctions and contempt proceedings and disciplinary action, including possible discharge.

Additionally, Personnel Rule 11.4 provides that any employee absent without leave for three consecutive working days is deemed to have resigned.

Effective immediately, and until further notice, all approved use of sick and/or vacation credits is hereby cancelled. Effective immediately no employee shall be authorized the use of leave credits without specific written approval of his or her particular appointing authority or designee. All employees who call in sick are hereby advised that they may be required to produce a medical statement from a qualified physician indicating the absence (1) is based on personal examination of patient during period of illness, (2) was due to objectively observable and measurable symptoms, or (3) was essential to the patient's health.

In the event of an employee action, staff members are expected to cross a picket line to report to work.

Employees may be required to work overtime in order to provide necessary institutional coverage.

This notice is written with the sincere hope that the public will not be harmed by any employee work action. I hope that the crisis which prompted this memo will soon be over so that we can return to standard personnel procedures.

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-13

Date: August 9, 1976

SUBJECT: Employee Mailing Addresses

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

Pursuant to Rule 3.02(B) of the Maine Labor Relations Board Rules and Procedures, this office is required to supply a list of names and mailing addresses of all employees eligible to vote in an election of bargaining agents. This list will be used by the Maine Labor Relations Board to mail ballots to all eligible employees.

The quickest, least expensive and most accurate way of developing this list is to go directly to each and every employee.

On August 16, 1976, we will be sending business reply postcards (no postage necessary when mailed back to our office), and a cover memo to all payroll clerks. Whether the postcards are distributed to all employees with paychecks or in some other, more expedient manner, is left to supervisory discretion.

We ask for your cooperation in this matter.

IMPORTANT BULLETIN TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL

Angus S. King, Jr.
Governor

**DEPARTMENT OF
SERVICES**
Bureau of Employee Relations
Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537



Director
Kenneth A. Walo

ADMINISTRATIVE & FINANCIAL

No.: OSER-14

Date: August 25, 1976

SUBJECT: Leave for Internal Employee Organization Activities

TO: All Department and Agency Heads

FROM: Lanning S. Mosher, Director

Purpose

1. In order to provide equal treatment for each employee organization and, at the same time, be fair to the taxpayers of Maine, the State is adhering to the following policy concerning time off from work to participate in internal employee organization or union affairs.

Policy

2. Employees may use vacation credits to attend union conventions and other internal meetings, provided that their absence will not interfere with the proper conduct of department or agency operations and that they submit their requests to their supervisors at least five (5) days in advance. Members of all employee organizations should be treated equally.

Special Procedure for the Remainder of 1976

3. Because an organization has already received some administrative leave for its convention earlier this year, we will grant the same amount to competing employee organizations during the remainder of this calendar year. Arrangements for any administrative leave to attend conventions will be made between this office and the employee organization involved, and communicated to agencies at least five (S) days before any convention.

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL**

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
Bureau of Employee Relations
Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-15

Date: November 23, 1976

SUBJECT: Employee Organizing Activities and Bargaining Unit Elections

TO: Department and Agency Heads

FROM: Lanning S. Mosher, Direct

This memorandum is issued to re-emphasize the State's policy of assuring equal and impartial treatment of employee organizations competing for bargaining agent status. This policy and detailed instructions for its implementation are contained in OSER-5, dated October 23, 1974. Simply stated, the State's policy is to be completely neutral and not favor any organization seeking certification or recognition as a collective bargaining agent. Confidential employees must not use their official position to influence employees.' opinion of potential bargaining agents.

The Executive Director of the Maine Labor Relations Board issued a decision on September 22 determining seven bargaining units for State employees. Some of these units have been appealed to the Maine Labor Relations Board, and the decision of the Executive Director may be upheld or modified in part. However, elections for bargaining agents in some of the units may be held in the very near future. There may be an increase in employee organization activity during the next few months as employee organizations renew their efforts to 'Obtain authorization cards which will permit them to appear on the ballot in the established units.

Rather than reproduce OSER-5, we would ask that appropriate action be taken to ensure that employees within your area of responsibility are familiar with and comply with the provisions of that memorandum. Further instructions concerning the conduct of elections will be issued as necessary in the future. Meanwhile, any questions concerning the contents of this memorandum or OSER-5 should be directed to Jack Sears, Staff Counsel in our office, at 289-3941.

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS
MANUAL**

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-38
Addendum #10

Date: January 30, 1996

SUBJECT: CHILD CARE REIMBURSEMENT PAYMENTS

TO: All Holders of Employee Relations Manual

FROM: Kenneth A. Walo, Director

Let this serve as a reminder that we are approaching the application period for child care reimbursement. There is no change to the application or payment procedure or to the Child Care Reimbursement forms. Please refer to ER Bulletin #38 Addendum #6 and #8 for more specific information. Please direct any questions to Alicia Kellogg of my staff at 287-4428. Thank you.

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447

FAX (207) 287-4452 TDD (207) 287-4537

No.: 38 Addendum #11

Date: February 12, 1997

Subject: **CHILD CARE REIMBURSEMENT PAYMENTS**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

Let this serve as a reminder that we are approaching the application period for child care reimbursement. There is no change to the application or payment procedure or to the Child Care Reimbursement forms. Please refer to ER Bulletin #38 Addendum #6 and #8 for more specific information. Please direct any questions to Alicia Kellogg of my staff at 287-4428.

Thank you.

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447

FAX (207) 287-4452 TDD (207) 287-4537

No.: 38 Addendum #12

Date: February 13, 1998

Subject: **CHILD CARE REIMBURSEMENT PAYMENTS**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

Let this serve as a reminder that we are approaching the application period for child care reimbursement. There is no change to the application or payment procedure or to the Child Care Reimbursement forms. Please refer to ER Bulletin #38 Addendum #6 and #8 for more specific information. Please direct any questions to Alicia Kellogg of my staff at 287-4428.

Thank you.

M E M O R A N D U M

BUREAU OF EMPLOYEE RELATIONS

No.: 48

Date: August 2, 1993

Subject: **CHANGE IN AFSCME AGREEMENT AND CERTAIN MSEA AGREEMENTS -- 1993-1995**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

This memorandum provides brief explanations and basic guidelines on the interpretation and implementation of the new AFSCME Agreement and four new Maine State Employees Association (MSEA) Agreements. This memo should not be used as a substitute for reading the actual agreements and should be read in conjunction with the agreements themselves, which we will distribute as soon as they are available.

Specific questions concerning the provisions of these agreements may be directed to any member of my staff. If consultation on a subject is necessary, a response to your inquiry will be forthcoming as soon as possible.

Thank you.

KAW/bls
Attachment

Changes in the 1993-1995 Agreements Between the State of Maine and the Maine State Employees Association (Administrative; Professional and Technical; Operations, Maintenance and Support; and Supervisory Services Bargaining Unit.

ARTICLE 5. BEREAVEMENT LEAVE (All Contracts)

Provides for an increase from three (3) to four (4) days leave with pay for significant other living in the same household with the employee.

ARTICLE 7. CASEWORK (All Contracts)

Deletes the entire article. The work of the Committee has been completed.

ARTICLE 8. CHILD CARE (All Contracts)

Provides "employed as of March 1" as a criteria for eligibility. Also provides for payment within 30 days of application. Implementing language is deleted.

ARTICLE 11. COMPENSATION (All Contracts)

Effective 7/1/94, a new Step will be added to the current salary schedule. This Step, which is four percent (4%) higher than the current Step 1, will be placed between Step 1 and Step 2. Employees on Step 1 will remain on Step 1; employees on Steps 2-7 will be reassigned to corresponding Steps 3-8 on the amended salary schedule. (This eliminates the ten percent (10%) move from Step 1 to Step 2.

ARTICLE 25. EMPLOYEE DEVELOPMENT AND TRAINING (ADMIN Only)

Deletes Section 5 which created an Ad Hoc Committee to identify educational and training opportunities for clerical employees. The work of the Committee has been completed.

ARTICLE 26. EMPLOYEE ORGANIZATION LEAVE (All Contracts)

Reduces from five (5) to four (4) the number of members from each unit on the MSEA bargaining team. Provides for the addition of Chief Stewards to **Section C - Stewards**. Chief Stewards are given the same consideration as Stewards but are "instead of" rather than "in addition to".

ARTICLE 31. HEALTH INSURANCE PLAN (All Contracts)

Eliminates language pertaining to a designated plan and adds language to provide health insurance for employees pursuant to statute. Also, adds language to allow a sixty (60) day period for part-time and seasonal employees who transfer to permanent full-time positions to apply for health insurance without providing evidence of insurability.

M E M O R A N D U M

BUREAU OF EMPLOYEE RELATIONS

ARTICLE 32. HOLIDAYS (All Contracts)

Changes Washington's Birthday to Presidents' Day.

ARTICLE 34. LABOR/MANAGEMENT COMMITTEES (All Contracts)

A. Statewide

Eliminates language pertaining to completed tasks of the Committee.
Adds language establishing a subcommittee to study the feasibility of a per diem expense reimbursement system.

ARTICLE 50. REEMPLOYMENT OF RETIRED PERSONS (All Contracts)

Deletes the entire article. Now covered by law.

ARTICLE 56. SENIORITY (All Contracts)

B. Layoffs

Deletes the third paragraph pertaining to "computer capacity."

D. Recalls

Deletes the second paragraph pertaining to "computer capacity."

J. Part-Time Employees

Establishes separate tracks for part-time employees for layoff and recall purposes.

ARTICLE 72. TERM OF AGREEMENT (All Contracts)

Provides for a two (2) year contract ending June 30, 1995.

MEMORANDUMS OF AGREEMENT

One Hour Reduction (All Contracts)

Continues the one (1) hour workweek reduction through the ratification process or rejection of a successor agreement.

Military Firefighters (OMS, SSU)

Establishes separate negotiations for Military Firefighters, Supervisors, and Chiefs.

Teachers and Related Classifications (P&T, SSU)

Changes the procedure for establishing stipends for Teachers at Governor Baxter School for the Deaf.

ADDENDUM (All Contracts)

Copy and Summary attached.

M E M O R A N D U M

BUREAU OF EMPLOYEE RELATIONS

**Changes in the 1993-1995 Agreement Between the State of Maine
and the American Federation of State, County and Municipal Employees.**

ARTICLE 4. BEREAVEMENT LEAVE

Provides for an increase from three (3) to four (4) days leave with pay for significant other living in the same household with the employee.

ARTICLE 7. CHILD CARE

Provides "employed as of March 1" as a criteria for eligibility. Also provides for payment within 30 days of application. Implementing language is deleted.

ARTICLE 10. COMPENSATION

Paragraph M. Deletes implementing language. The fifteen cents (\$.15) per hour increase scheduled to take effect 7/1/91 but deferred for employees of MH&MR and Baxter School is implemented effective 7/18/93.

ARTICLE 20. EMPLOYEE MEALS

Provides for the establishment of a Labor/Management Committee to study the feasibility of replacing the current system with a per diem expense reimbursement system.

ARTICLE 23. HEALTH INSURANCE

Eliminates language pertaining to a designated plan and adds language to provide health insurance for employees pursuant to statute. Also, adds language to allow a sixty (60) day period for part-time and seasonal employees who transfer to permanent full-time positions to apply for health insurance without providing evidence of insurability.

ARTICLE 24. HOLIDAYS

Changes Washington's Birthday to Presidents' Day.

ARTICLE 56. TERM OF AGREEMENT

Provides for a two year contract ending June 30, 1995.

MEMORANDUM OF AGREEMENT

One Hour Reduction

Continues the one (1) hour workweek reduction through the ratification process or rejection of a successor agreement.

ADDENDUM

Copy and Summary attached.

MEMORANDUM
BUREAU OF EMPLOYEE RELATIONS

No.: 49

Date: May 21, 1998

Subject: **Conducting Competitive Selections**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

In a recent arbitration decision involving a competitive selection the arbitrator ordered the State to prepare and disseminate to all agencies having competitive selections an instruction sheet explaining applicable arbitral precedent on how these selections should be conducted. The arbitrator further ordered that the instructions must be **“explicitly reviewed with interview panels and appointing authorities.”**

Attached is such an instruction sheet. Each member of a competitive selection panel is to be provided a copy of these instructions prior to any competitive selection and given the opportunity to discuss and ask any questions about the instructions.

It is this Bureau's intention to meet with the departmental personnel officers in the near future to further discuss these instructions and answer any questions you may have. In the meantime please feel free to contact this Bureau with questions.

Thank you.

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INSTRUCTIONS FOR CONDUCTING COMPETITIVE SELECTIONS IN ACCORDANCE WITH RECENT ARBITRAL PRECEDENT

I. Length of State Service is important. The Selection Panel must give length of satisfactory state service appropriate consideration along with qualifications for the position.

A. Every interview panel must be aware of the relative length of state service of each applicant prior to the interview. This should be provided to them by the personnel officer.

1. Length of state service is defined as the total amount of time spent working for the state in a permanent position in any department. This service need not be continuous.

2. Time spent in a part-time or seasonal position counts equally toward length of service calculations; however the weight given such service in considering it may be less than that given to full time year round service.

B. The panel must expressly consider relative length of satisfactory state service, and **there must be evidence of such consideration.**

1. After the interviews the panel should discuss the relative lengths of state service and weigh relative lengths of service and qualifications of the candidates.

2. If, after that weighing process, the panel or a panelist determines that a candidate with less state service is the best qualified for the position, they should **set forth in detail why the junior candidates qualifications outweighed the other candidate's greater state service.** This should be **in writing** and "based on legitimate judgments as to the relative strengths of the candidates and how those strengths relate to the particular requirements of the job."

Put yourself in the place of the candidate with much longer state service. Wouldn't you want to know why someone with much less service was selected for the position?

II. The Selection Panel must consider past job performance. ¹

A. Past job performance is relevant as a predictor of future job performance. "Some observation of past performance should be used to determine if there are gross disparities in performance, major deficiencies, or to clarify or double check impressions created

¹ This requirement applies to noncompetitive selections as well.

at the interview.” There are several ways in which a selection panel may consider past performance.

1. The recent (usually past three years) performance appraisals for each candidate may be reviewed. Unless the same person supervises all candidates, there may be concerns about the comparability of the assessments.
2. A panelist (usually the Chairperson) may contact the supervisors of the candidates who received the highest rankings after the interview (usually the top two or three).
3. Some agencies have used supervisory references prepared before the interview specifically with the particular promotional position in mind. This works best when an agency had a large number of similar classes such as DOT.

B. Depending on the particular facts in the selection at hand you may wish to use one method as opposed to another, or to use a combination of these methods. For example, if there are candidates from outside state service, or if it is well known that one candidate's supervisor writes very critical appraisals of employees while another gives all employees top rankings, supervisory references may be better than performance appraisals. The method used should be as consistent as possible within the selection.

III. The panel cannot give a candidate who has been in acting capacity in the promotional position to be filled a possible advantage by considering that acting capacity service in the selection process.²

A. A candidate may not be permitted to gain an advantage by virtue of having served in the position being filled in acting capacity. Therefore experience and/or knowledge gained by a candidate **solely** because s/he had served in acting capacity in the position may not be considered.

1. Interview questions must be framed so that answers are not directly related to specific experiences a candidate had while serving in acting capacity.
2. The panel shall direct the candidates not to mention such acting capacity service or any experience or knowledge gained

² This requirement applies to noncompetitive selections as well.

solely through such service. One panelist or the monitor should monitor the questions and answers. Should a candidate forget this instruction, s/he should be reminded of it and asked to correct the answer to only contain information based on non acting capacity experience. The other panelists should be instructed to strike out of their notes and not consider any portion of the answer based improperly on acting capacity.

3. Where an agency has been ordered by an arbitrator or settlement agreement to reselect for a particular position, the state must do everything feasible to minimize the possibility that the originally selected candidate will be advantaged by the time s/he spent in the job. Just as with acting capacity, the state may not consider the knowledge and experience gained by the originally selected candidate **solely** because s/he was in the position.

MEMORANDUM

BUREAU OF EMPLOYEE RELATIONS

No.: 50 (Revised)

Date: May 21, 1998

Subject: **Disciplinary Suspensions of FLSA Exempt Employees**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

A recent letter ruling from the Federal Department of Labor's Wage and Hour Division has established that a public employer may not impose a disciplinary suspension without pay of an FLSA exempt employee¹ ~~for less than one week~~. The only exception is that an exempt employee may be suspended without pay ~~for less than one week~~ as a penalty "in good faith for infractions of safety rules of major significance." Please contact this Bureau if you are contemplating a ~~less than one week~~ suspension of an exempt employee for such infractions.

The above paragraph does not relieve the employer of the need to have just cause for any suspension or other discipline. In other words, if the misconduct would ordinarily warrant ~~only a one-day suspension, you may not impose a one-week suspension to meet the FLSA requirements.~~, Instead, a written reprimand in lieu of suspension would be an appropriate penalty. If you are in doubt about the appropriateness of a disciplinary penalty, please contact this Bureau.

IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE RELATIONS MANUAL

¹ An employee who is overtime-exempt is generally FLSA exempt. If you have any question whether an employee is FLSA exempt, contact Freeman Wood.

MEMORANDUM

BUREAU OF EMPLOYEE RELATIONS

No.: 51

Date: May 21, 1998

Subject: **CHANGE IN AFSCME AND MSEA AGREEMENTS -
1997-1999**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

Attached are summaries which provide a brief explanation and basic guidelines on the interpretation and implementation of the new AFSCME Agreement and the MSEA Agreements. These summaries should not be used as a substitute for reading the actual agreements and should be read in conjunction with the agreements themselves, which we will distribute as soon as they are available. In addition to the summary, we have included a copy of the actual language changes which will be incorporated in the new agreements.

Unless otherwise provided in the agreements, the AFSCME and MSEA (OMS, SSU, P&T, AS) contracts are effective as of January 31, 1997. The MSEA LE contract is effective April 16, 1997.

Specific questions concerning the provisions of these agreements may be directed to me or any member of my staff.

Thank you.

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE
RELATIONS MANUAL**

**SUMMARY OF THE CHANGES IN THE 1997-1999 TENTATIVE
AGREEMENT BETWEEN THE
STATE OF MAINE
AND THE
MAINE STATE EMPLOYEES ASSOCIATION
FOR THE
ADMINISTRATIVE SERVICES BARGAINING UNIT,
OPERATIONS, MAINTENANCE & SUPPORT SERVICES BARGAINING
UNIT, SUPERVISORY SERVICES BARGAINING UNIT
AND THE
PROFESSIONAL & TECHNICAL SERVICES BARGAINING UNIT**

ARTICLE 1. UNION RECOGNITION

Changes the definition of intermittent from 500 hours to 1040 hours consistent with recent change in statute.

ARTICLE 9. COMPENSATING TIME

Employees may not continue to accumulate Compensating Time after reaching the 240 hour maximum. Once an employee has 240 hours accumulated, he/she must be paid at the appropriate rate. (This does not apply to Law Enforcement Supervisory employees.)

ARTICLE 10. COMPENSATION

A. Lump Sum Payment Provides for a lump sum payment equal to 2.25% of base rate paid for the first twenty-six (26) paychecks in calendar year 1996.

B. General Salary Increase Provides for a 2% base salary increase effective the pay week closest to July 1, 1997. Provides for a 2% base salary increase effective the pay week closest to July 1, 1998.

D. Call Out Establishes January 1, 1997, as the cut-off date for grandfathering call-out compensation which is higher than provided by the collective bargaining agreement.

ARTICLE 20. DISCIPLINE

Language which allows discipline to occur prior to notice in cases of gross misconduct is deleted. Language requiring an explanation of

evidence against the employee and an opportunity for the employee to respond at the meeting with the Appointing Authority is added.

ARTICLE 23. EMPLOYEE DATA

Updates the language for transmittal of information to MSEA to reflect current available technology.

ARTICLE 26. EXPENSE REIMBURSEMENT

A. Mileage Allowance Provides for one cent (1¢) per mile increases effective July 1, 1997 and July 1, 1998.

B. Lodging and Meal Expenses Provides for reimbursement of lodging and meal expenses as provided in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy and guarantees a minimum per diem of twenty-two dollars.

G. Corporate Credit Cards This new section outlines the parameters employees must observe when issued a Corporate Credit Card to be used for expenses incurred when they are required to travel as part of their jobs.

ARTICLE 28. GRIEVANCE PROCEDURE

2.3 Step 3 Provides for the option of whether or not a meeting will be held at this level; provides for a fifteen (15) day time frame for a response if a meeting is not held and ten days if a meeting is held.

ARTICLE 33. LABOR/MANAGEMENT COMMITTEES

A. Statewide (Admin) A sub-committee is established to develop and implement a pilot project concerning job-shadowing within the Department of Administrative and Financial Services.

C. Employee Health Deletes original implementing language and adds legal cite establishing the State Employee Health Commission.

D. Layoffs Establishes an Ad Hoc Committee to examine the current layoff/bumping process to determine whether it can be improved to minimize impact on state employees and state operations.

E. Catastrophic Illness/Accident Leave Pool Establishes an Ad Hoc Committee to investigate the feasibility of establishing a Catastrophic Illness/Accident Leave Pool.

ARTICLE 48. RECLASSIFICATIONS

Effective July 1, 1997, reduces the interest paid from one percent (1%) to two thirds of one percent (2/3%) per month on all monies due as a result of a reclassification or reallocation from the date of the final decision until payment. This does not apply to pending reclassifications/reallocations in process prior to July 1, 1997.

ARTICLE 52. RETIREMENT CONTRIBUTION REFUNDS

Changes the language to reflect current law: refunds are to be made within sixty (60) days of application.

ARTICLE 57. SICK LEAVE

Adds language encouraging employees to consult with their Personnel Officer to determine whether they are eligible for benefits under the Federal Family and Medical Leave Act.

ARTICLE 61. UNPAID PERSONAL LEAVES OF ABSENCE

Adds language encouraging employees to consult with their Personnel Officer to determine whether they are eligible for benefits under the Federal Family and Medical Leave Act.

ARTICLE 64. VIDEO DISPLAY TERMINAL OPERATORS

Extends the provisions of this article to the OMS unit.

ARTICLE 69. WORKERS' COMPENSATION

Changes the state share of dependent health insurance coverage from fifty percent (50%) to sixty percent (60%) to reflect current practice.

ARTICLE 70. TERM OF AGREEMENT

The contract is effective upon signing until June 30, 1999.

**THE 1997-1999 TENTATIVE AGREEMENT
BETWEEN THE
STATE OF MAINE
AND THE
MAINE STATE EMPLOYEES ASSOCIATION
FOR THE
ADMINISTRATIVE SERVICES BARGAINING UNIT,
OPERATIONS, MAINTENANCE & SUPPORT SERVICES BARGAINING
UNIT,
SUPERVISORY SERVICES BARGAINING UNIT
AND THE
PROFESSIONAL & TECHNICAL SERVICES BARGAINING UNIT**

ARTICLE 1. UNION RECOGNITION

Change paragraph 5 to read as follows:

Temporary, seasonal and on-call employees, excluded by law from the bargaining unit, include project employees, seasonal employees not covered by the preceding paragraphs, persons from outside State service who are on acting capacity assignment, and intermittent employees. Project employees are employees appointed to a project position which is restricted to a planned work program to be completed within a specified period of time and which is not regularly recurring. Intermittent employees are employees who are appointed for a period of time on a sporadic basis and who work not more than one thousand forty (1,040) hours in any consecutive twelve (12) month period beginning with the date of hire or anniversary of date of hire.

ARTICLE 9. COMPENSATING TIME (ADMIN, P&T & OMS)

Compensating time earned by an employee may be accumulated up to two hundred forty (240) hours. Except where operational needs require otherwise, employees shall be entitled to use compensating time at times of their choice.

Employees who have more than two hundred forty (240) hours upon the signing of this agreement, will be paid for any hours beyond two hundred forty (240).

ARTICLE 9. COMPENSATING TIME (SSU)

1. Non-Law Enforcement Employees

Compensating time earned by an employee may be accumulated up to two hundred forty (240) hours. Except where operational needs require otherwise, employees shall be entitled to use compensating time at times of their choice.

Employees who have more than two hundred forty (240) hours upon the signing of this Agreement will be paid for any hours beyond two hundred forty (240).

2. Law Enforcement Employees

Employees with law enforcement responsibilities may accumulate up to three hundred (300) hours. Any compensating time earned after accumulation of the three hundred (300) hours must be used within thirty (30) days. Except where operational needs require otherwise, employees shall be entitled to use compensating time at times of their choice. If an employee is denied use of compensating time which exceeds the allowed accumulation, he/she shall, at the employer's option, be paid for the time or be entitled to carry it over until a suitable time for use is approved.

3. The State at its option and at any time may pay an employee for up to one-half ($\frac{1}{2}$) of that employee's accumulated time, which payment shall be at the employee's base hourly rate in effect at the time of payment.

ARTICLE 10. COMPENSATION

A. Lump Sum Payment

Within thirty (30) days after the signing of the 1997-1999 Agreement, each person employed by the State on the date of the signing of the Agreement shall receive a lump sum payment equal to 2.25% of the base rate paid to the employee for the first twenty-six (26) paychecks in calendar year 1996.

B. General Salary Increase

1. Effective with the start of the pay week commencing closest to July 1, 1997, employees shall be provided an across-the-board salary increase of two percent (2%).

2. Effective with the start of the pay week commencing closest to July 1, 1998, employees shall be provided an across-the-board salary increase of two percent (2%).

Salary schedules shall be increased accordingly.

D. Call Out - (ADMIN, P&T & OMS)

Any employee who is eligible for overtime who is called out for work outside of and not continuous with his/her regular hours will be paid a minimum of four (4) hours of the employee's regular rate of pay or hours actually worked at the appropriate rate, whichever is greater. This section shall not apply to an employee who is called in four (4) hours or less prior to the start of his/her workday or shift and who continues to work that day or shift or to an employee held over at the end of their regular workday.

Notwithstanding this provision, employees in agencies which have been compensated for call out on a higher basis as of January 1, 1997 shall continue to be compensated on the higher basis.

D. Call Out - (SSU)

Any employee who is eligible for overtime who is called out for work outside of and not continuous with his/her regular hours will be paid a minimum of four (4) hours of the employee's regular rate of pay or hours actually worked at the appropriate rate, whichever is greater. This section shall not apply to an employee who is called in four (4) hours or less prior to the start of his/her workday or shift and who continues to work that day or shift or to an employee held over at the end of their regular workday.

Notwithstanding this provision, employees in agencies which have compensated for call-out on a higher basis as of January 1, 1997.

When non-standard law enforcement employees are called out for work on any of the scheduled days off they shall be granted one and one-half (1½) hours of compensating time for each hour worked. In lieu of compensating time, upon mutual agreement, employees may be paid one and one-half (1½) their base hourly rate for each hour worked. Unless the employees are to receive pay rather than compensating time, the compensatory time shall be scheduled as soon as practicable and ordinarily will be within thirty (30) days of the day worked unless on an

otherwise mutually agreed upon later day, except that the thirty (30) day period may be extended because of seasonal high workload in the agency in which the employee is employed. If such compensating time off is not granted within six (6) months of the date the employee was scheduled to work his/her day off, the employee shall be paid in lieu of compensating time off.

ARTICLE . DISCIPLINE

1. No employee shall be disciplined by the State without just cause. Notwithstanding the foregoing, new employees in an initial probationary period may be dismissed without the necessity on the part of the State of establishing just cause.

Disciplinary action shall be limited to the following: oral reprimand, written reprimand, suspension, demotion, dismissal. The principles of progressive discipline shall be followed.

2. No employee covered by this Agreement shall be suspended without pay, demoted or dismissed without first having been given notice in writing of the disciplinary action to be taken. The conduct for which disciplinary action is being imposed and the action to be taken shall be specified in a written notice. Any employee receiving a notice of suspension, demotion, or dismissal will be afforded an opportunity to meet with the appointing authority or his/her representative prior to the action proposed. The employee will be entitled to have a Union representative or steward present. At that meeting the appointing authority or his/her designee will give the employee an explanation of the employer's evidence against the employee (if that has not already been provided) and offer the employee an opportunity to respond. Employees are on notice that a finding of having committed the offense of physical abuse is excluded from progressive discipline and may result in termination of first offense.

Any employee suspended without pay, demoted or dismissed, may initiate appeal of such disciplinary action at the department or agency head step of the Grievance and Arbitration Procedure within fifteen (15) workdays after the employee becomes aware of such disciplinary action.

ARTICLE . EMPLOYEE DATA

1. So long as not prohibited by law, the State shall furnish to MSEA quarterly, at Union expense, a computer listing and a personal computer floppy diskette of the then-available information, specified hereinafter, for each employee covered by this Agreement. The computer listing and diskette shall contain, to the extent practicable, the name, address, social security number, class code, classification, pay range and

step, employing agency and initial date of hire for each employee covered by this Agreement. MSEA shall indemnify, defend and hold the State harmless against all claims and suits which may arise as a result of the State's furnishing such listing and tape to MSEA.

2. Upon mutual agreement, the State and MSEA will use technology available to each party for the purpose of receiving the aforementioned electronic data in the most efficient manner possible. By mutual agreement, such information transmitted to MSEA in a hard copy format will be transmitted electronically after agreement between the parties on format and content.

ARTICLE . EXPENSE REIMBURSEMENT

A. Mileage Allowance

1. Employees shall be paid a mileage allowance of twenty-two cents (\$.22) per mile for use of their personal vehicles on State business.

Effective July 1, 1997, the mileage allowance will be increased to twenty-three cents (\$.23) per mile.

Effective July 1, 1998, the mileage allowance will be increased to twenty-four cents (\$.24) per mile.

2. Employees who are handicapped and who operate their own personal wheelchair lift or other specially equipped vehicle on State business shall receive a mileage reimbursement rate of forty-five cents (\$.45) per mile.

B. Lodging and Meal Expenses

1. Employees in travel status in the performance of their duties shall be entitled to expenses of necessary lodging and/or meals as provided for in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy.

Nothing contained in this Article shall be deemed to alter the present State policy prohibiting reimbursement for noon meals unless the meal is part of an organized meeting or program or overnight travel.

2. Estimated travel expenses shall be advanced to employees when reasonable and when requested. Any reimbursement of expenses shall be made as soon as possible following the submission of expense reports.

3. Ferry Service employees on unscheduled or unexpected stopovers away from their home ports during meal times shall be entitled to reasonable meal expenses, not to exceed the dollar amounts for breakfast, lunch and dinner listed in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy.

4. Receipts shall not be required for reimbursement for meals eight dollars (\$8.00) and under.

5. Meal allowances for extended days will be paid at the rate of five dollars (\$5.00) for breakfast and fourteen dollars (\$14.00) for dinner.

6. Notwithstanding this provision, no employee shall receive less than the per diem reimbursement allowance of twenty-two dollars (\$22.00) which was authorized prior to the adoption of this provision.

G. Corporate Credit Cards

The State shall provide Corporate Credit Cards for those employees who travel as part of their jobs. This Corporate Credit Card shall be issued in the name of the employee with the State and Agency name affixed. The payment of the monthly credit card bill will be the responsibility of the employee. Also, it will be the responsibility of the employee to submit periodic expense reports as determined by the respective Department. Late charges which result from the State's failure to reimburse employees in a timely manner will be the responsibility of the State. Personal charges on the Corporate Credit Card will be prohibited. Failure to pay credit card bills as required or personal use of the credit card may result in revocation of credit card privileges.

ARTICLE . GRIEVANCE PROCEDURE

Change the following paragraph to read as follows:

2. Procedure

2.3 Step 3: If the grievance is not resolved at Step 2, within ten (10) workdays after receipt of the written decision of the department or agency head the employee and/or his/her representative may appeal to the State Director of Employee Relations by filing with him/her a written notice of appeal, together with copies of the written grievance and the Step 2 decision. The Director of Employee Relations or his/her representative may meet with the employee and/or his/her representative and shall provide the employee and/or his/her representative with a written decision within fifteen (15) workdays of receipt of the appeal; or, if a meeting is held, within ten (10) workdays after the conclusion of such meeting.

ARTICLE . LABOR/MANAGEMENT COMMITTEES

A. Statewide (ADMIN)

The Labor/Management Committee established by the previous contracts shall continue.

A sub-committee of the Statewide Labor/Management Committee, (Partnership on Career Opportunity) is established to develop, implement and evaluate a pilot study on job shadowing in Maine State Government.

The Pilot shall be for one (1) year duration and include employees working in the Department of Administrative and Financial Services. The details of the pilot will be worked out by the (PCO) committee, but shall include the following provisions:

- Employees taking part in the pilot will be able to utilize administrative leave pursuant to Article 24, Section 5 of the Administrative Services Agreement.
- Any travel to or from job shadowing sites shall be on the employee's own time.
- The pilot project shall begin on July 1, 1997 and end on June 30, 1998, but may be extended by mutual agreement.
- Job shadowing opportunities for DAFS employees, will not be limited to the Department.

Committee members may participate in the work of the Committee during working hours without loss of pay or benefits.

B. Building Safety

There shall be established a Labor/Management Committee concerning the safety of State Buildings. The Committee shall be made up of one representative from each of the following bargaining units: Representing Labor - Administrative Services; Operations, Maintenance and Support Services; Law Enforcement; Professional and Technical Services; Supervisory Services; Institutional Services; and State Police Unit and an equal number of management representatives selected by the Governor. Committee members may participate in the work of the committee during working hours without loss of pay or benefits.

C. Employee Health

There is established by law (Title 5, Chapter 13, Subchapter II, Section 285-A) the State Employee Health Commission. Commission members who are covered by this agreement may participate in the work of the Commission during work hours without loss of pay and benefits.

D. Layoffs

There shall be an Ad Hoc Labor/Management Committee established to explore opportunities to improve and enhance the layoff/bumping process in order to minimize the impact that reductions in force have on employees and State operations. The Committee shall be made up of one representative from each of the following bargaining units: Representing Labor - Administrative Services; Operations, Maintenance and Support Services; Law Enforcement Services; Professional and Technical Services; and Supervisory Services and an equal number of management representatives selected by the Bureau of Employee Relations. Committee members may participate in the work of the Committee during working hours without loss of pay or benefits. The Committee shall report its findings and recommendations, if any, to the parties by January 1, 1998.

E. Catastrophic Illness/Accident Leave Pool

There shall be established an Ad Hoc Committee to investigate the feasibility of establishing a Catastrophic Illness/Accident Leave Pool. The Committee shall consist of one representative from each of the following bargaining units: Administrative Services; Operations, Maintenance and Support Services; Law Enforcement Services; Professional and Technical Services; and Supervisory Services; and an equal number of management representatives. Committee members may participate in the work of the Committee during working hours without loss of pay or benefits. The Committee shall report their findings to the parties by January 1, 1998.

ARTICLE 48. RECLASSIFICATIONS

3. Except for reclassifications and reallocations in connection with a reorganization, any reclassification or reallocation decision of the Director of Human Resources or the Arbitrator or Alternate shall be effective as of the date of the written initiation of the reclassification or reallocation request by the employee, MSEA or State and shall be implemented

retroactively when the funds are provided pursuant to budgetary procedures.

The State shall pay the employee reclassified or reallocated interest of one percent (1%) per month on all monies due as a result of the reclassification or reallocation from the date of the final decision until payment.

Effective July 1, 1997, the State shall pay the employee reclassified or reallocated interest of two thirds of one percent (2/3%) per month on all monies due as a result of the reclassification or reallocation from the date of the final decision until payment. However, any employee with a pending reclassification action in process prior to July 1, 1997, shall be entitled to interest payment of one percent (1%) per month on all monies due.

ARTICLE 52. RETIREMENT CONTRIBUTION REFUNDS

Refund of an employee's accumulated contributions to the Member's Contribution Fund of the Maine State Retirement System shall be made within the time frame provided by law. Currently, refund shall be made within sixty (60) days after receipt by the System of an application for refund.

ARTICLE 57. SICK LEAVE

Change the following paragraph to read as follows:

2. Sick leave may be used for illness, necessary medical or dental care, or other disability of the employee or a member of the employee's immediate family which requires the attention or presence of the employee. Immediate family shall mean the spouse, the parents of the spouse, the parents, stepparents, guardian, children, stepchildren, brothers, stepbrothers, sisters, stepsisters, wards, grandparents and grandchildren of the employee. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits available under the Federal Family and Medical Leave Act. A medical examination or doctor's certificate may be required on account of use of sick leave for five (5) or more consecutive workdays, or because of repeated absences on days preceding or days following a holiday or weekend. When a medical examination or doctor's certificate is required on account of use of sick leave in excess of five (5) consecutive workdays, such shall not be at the State's expense.

ARTICLE 61. UNPAID PERSONAL LEAVES OF ABSENCE

Change the following paragraph to read as follow:

1. Any employee may apply for an unpaid personal leave of absence for good and sufficient reason. Leave pursuant to this provision may be for a period not exceeding twelve (12) months in any fourteen (14) consecutive months. Such leave may be granted at the discretion of the appointing authority and shall not be unreasonably denied. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits available under the Federal Family and Medical Leave Act. All requests for such leave and responses shall be in writing. The application for leave must specifically state the reasons for such application and the length of time requested. After completion of a period of personal leave of absence, the employee shall be entitled to return to the organizational unit, status and position held immediately prior to the beginning of the leave of absence. If the employee's position is abolished during any such leave, he/she shall be notified and allowed to exercise his/her rights under the Seniority Article of this Agreement.

NEW ARTICLE (OMS)

ARTICLE . VIDEO DISPLAY TERMINAL OPERATORS

1. No employee shall be required to work more than two (2) continuous hours on a video display terminal. Employees whose job assignment requires them to work on VDT's should be assigned other work or activities for thirty (30) minutes for each two (2) hours of continuous work on the terminals. Rest and meal periods shall be counted toward the thirty (30) minutes.

2. Any employee who is newly assigned to a position, which by actual work consists of a least eighty percent (80%) VDT operation, including alternate work time under paragraph 1 of this Article, shall be required to submit to an examination by an eye doctor at the State's expense within sixty (60) days of the employee's assignment to the position.

3. All employees who spend at least eighty percent (80%) of their time operating VDT's, including alternate work time under paragraph 1 of this Article, shall be entitled to be examined by an eye doctor annually at the State's expense. All employees receiving eye examinations pursuant to this Article must provide the State with medical releases. Employees shall be given a report form to be completed by the eye doctor and returned to the agency Personnel Officer.

4. All employees receiving such annual eye examinations shall receive the sum of fifty dollars (\$50.00) toward the cost of corrective lenses

or glasses needed by the employee as indicated on the report form of the doctor.

ARTICLE 69. WORKERS' COMPENSATION

Amend the following paragraph to read as follows:

If an employee who is terminated pursuant to this Article is eligible for and makes application for disability retirement, the State shall continue to provide the employee's group health insurance and shall continue to pay the cost of the employee's coverage, as well as sixty percent (60%) of the dependent coverage, until the employee receives his/her first disability retirement check or until six (6) months after the termination, whichever occurs first.

ARTICLE 70. TERM OF AGREEMENT*

This Agreement shall be effective as of the signing of this Agreement until June 30, 1999, unless otherwise specifically provided herein. Either party shall give sixty (60) days' written notice of a desire to negotiate a new collective bargaining agreement or to modify this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective representatives on _____.

*Administrative Services Bargaining Unit
Operations, Maintenance & Support Services Bargaining Unit
Professional & Technical Services Bargaining Unit
Supervisory Services Bargaining Unit

Tentatively agreed to:

Date: November 4, 1996

Kenneth A. Walo
Kenneth A. Walo
Chief Negotiator
State of Maine
Bureau of Employee Relations

Steven J. Butterfield
Steven J. Butterfield
Chief Negotiator
Maine State Employees Association

**SUMMARY OF THE CHANGES IN THE 1997-1999 TENTATIVE
AGREEMENT BETWEEN THE STATE OF MAINE AND THE MAINE
STATE EMPLOYEES ASSOCIATION
FOR THE LAW ENFORCEMENT BARGAINING UNIT**

ARTICLE 1. UNION RECOGNITION

Changes the definition of intermittent from 500 hours to 1040 hours consistent with recent change in statute.

ARTICLE 10. COMPENSATION

A. Lump Sum Payment Provides for a lump sum payment equal to 2.25% of base rate paid for the first twenty-six (26) paychecks in calendar year 1996.

B. General Salary Increase Provides for a 2% base salary increase effective the pay week closest to July 1, 1997. Provides for a 2% base salary increase effective the pay week closest to July 1, 1998.

ARTICLE 20. DISCIPLINE

Language which allows discipline to occur prior to notice in cases of gross misconduct is deleted. Language requiring an explanation of evidence against the employee and an opportunity for the employee to respond at the meeting with the Appointing Authority is added.

ARTICLE 23. EMPLOYEE DATA

Updates the language for transmittal of information to MSEA to reflect current available technology.

ARTICLE 24 EMPLOYEE DEVELOPMENT AND TRAINING

5. Capitol Security Police to receive sixteen hours of mandatory training annually.

ARTICLE 26. EXPENSE REIMBURSEMENT

A. Mileage Allowance Provides for one cent (1¢) per mile increases effective July 1, 1997 and July 1, 1998.

B. Lodging and Meal Expenses Provides for reimbursement of lodging and meal expenses as provided in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy and guarantees a minimum per diem of twenty-two dollars.

D. Uniform Maintenance Allowance Effective July, 1997, provides for certain classifications of employees who currently utilize all wool or wool blend uniforms to receive an additional \$50.00 per year until such time as they revert to wash and wear equivalents.

G. Corporate Credit Cards This new section outlines the parameters employees must observe when issued a Corporate Credit Card to be used for expenses incurred when they are required to travel as part of their jobs.

ARTICLE 27. GRIEVANCE PROCEDURE

2.3 Step 3 Provides for the option of whether or not a meeting will be held at this level; provides for a fifteen (15) day time frame for a response if a meeting is not held and ten days if a meeting is held.

ARTICLE 32. LABOR/MANAGEMENT COMMITTEES

A. Statewide Deletes language on subcommittee for per diem reimbursement.

C. Employee Health Deletes original implementing language and adds legal cite establishing the State Employee Health Commission.

D. Layoffs Establishes an Ad Hoc Committee to examine the current lay/off bumping process to determine whether it can be improved to minimize impact on state employees and state operations.

E. Catastrophic Illness/Accident Leave Pool Establishes an Ad Hoc Committee to investigate the feasibility of establishing a Catastrophic Illness/Accident Leave Pool.

F. Physical Fitness Assessment Program Establishes an Ad Hoc Committee to study and make recommendations to the parties regarding implementation of a PFAP program.

G. Twenty-four Hour On-Call Status Establishes an Ad Hoc Committee to study and make recommendations to the parties regarding the requirement for twenty-four hour reachability under the terms of the Memorandum of Agreements.

ARTICLE 46. RECLASSIFICATIONS

Effective July 1, 1997, reduces the interest paid from one percent (1%) to two thirds of one percent (2/3%) per month on all monies due as a result of a reclassification or reallocation from the date of the final decision until payment. This does not apply to pending reclassifications/reallocations in process prior to July 1, 1997.

ARTICLE 51. RETIREMENT CONTRIBUTION REFUNDS

Changes the language to reflect current law: refunds are to be made within sixty (60) days of application.

ARTICLE 54. SENIORITY

O. Lateral Transfers Existing Agency policies will be continued until June 30, 1999.

ARTICLE 57. SICK LEAVE

Adds language encouraging employees to consult with their Personnel Officer to determine whether they are eligible for benefits under the Federal Family and Medical Leave Act.

ARTICLE 58. STATE VEHICLES AND EQUIPMENT

6. Change "Coastal Wardens" to "Marine Patrol Officers".

ARTICLE 61. UNPAID PERSONAL LEAVES OF ABSENCE

Adds language encouraging employees to consult with their Personnel Officer to determine whether they are eligible for benefits under the Federal Family and Medical Leave Act.

ARTICLE 64. VIDEO DISPLAY TERMINAL OPERATORS

Extends the provisions of this article to the LE unit.

ARTICLE 69. WORKERS' COMPENSATION

Changes the state share of dependent health insurance coverage from fifty percent (50%) to sixty percent (60%) to reflect current practice.

ARTICLE 70. TERM OF AGREEMENT

The contract is effective upon signing until June 30, 1999.

MEMORANDUM OF AGREEMENT - FIRE INVESTIGATORS

4c. Weekend or Holiday Standby Language changed to comply with current practices.

LAW ENFORCEMENT COMPENSATING TIME BUY BACK

3b. Call Out Employees allowed to buy back accrued compensatory hours from unused available overtime money remaining for FY '97, FY '98 and FY'99.

**THE 1997-1999 TENTATIVE AGREEMENT
BETWEEN THE
STATE OF MAINE
AND THE
MAINE STATE EMPLOYEES ASSOCIATION
FOR THE
LAW ENFORCEMENT SERVICES BARGAINING UNIT**

ARTICLE 1. UNION RECOGNITION

Change paragraph 5 to read as follows:

Temporary, seasonal and on-call employees, excluded by law from the bargaining unit, include project employees, seasonal employees not covered by the preceding paragraphs, persons from outside State service who are on acting capacity assignment, and intermittent employees. Project employees are employees appointed to a project position which is restricted to a planned work program to be completed within a specified period of time and which is not regularly recurring. Intermittent employees are employees who are appointed for a period of time on a sporadic basis and who work not more than one thousand forty (1,040) hours in any consecutive twelve (12) month period beginning with the date of hire or anniversary of date of hire.

ARTICLE 10. COMPENSATION

A. Lump Sum Payment

Within thirty (30) days after the signing of the 1997-1999 Agreement, each person employed by the State on the date of the signing of the Agreement shall receive a lump sum payment equal to 2.25% of the base rate paid to the employee for the first twenty-six (26) paychecks in calendar year 1996.

B. General Salary Increase

1. Effective with the start of the pay week commencing closest to July 1, 1997, employees shall be provided an across-the-board salary increase of two percent (2%).

2. Effective with the start of the pay week commencing closest to July 1, 1998, employees shall be provided an across-the-board salary increase of two percent (2%).

Salary schedules shall be increased accordingly.

ARTICLE . DISCIPLINE

1. No employee shall be disciplined by the State without just cause. Notwithstanding the foregoing, new employees in an initial probationary period may be dismissed without the necessity on the part of the State of establishing just cause.

Disciplinary action shall be limited to the following: oral reprimand, written reprimand, suspension, demotion, dismissal. The principles of progressive discipline shall be followed.

2. No employee covered by this Agreement shall be suspended without pay, demoted or dismissed without first having been given notice in writing of the disciplinary action to be taken. The conduct for which disciplinary action is being imposed and the action to be taken shall be specified in a written notice. Any employee receiving a notice of suspension, demotion, or dismissal will be afforded an opportunity to meet with the appointing authority or his/her representative prior to the action proposed. The employee will be entitled to have a Union representative or steward present. At that meeting the appointing authority or his/her designee will give the employee an explanation of the employer's evidence against the employee (if that has not already been provided) and offer the employee an opportunity to respond. Employees are on notice that a finding of having committed the offense of physical abuse is excluded from progressive discipline and may result in termination of first offense.

Any employee suspended without pay, demoted or dismissed, may initiate appeal of such disciplinary action at the department or agency head step of the Grievance and Arbitration Procedure within fifteen (15) workdays after the employee becomes aware of such disciplinary action.

ARTICLE . EMPLOYEE DATA

1. So long as not prohibited by law, the State shall furnish to MSEA quarterly, at Union expense, a computer listing and a personal computer floppy diskette of the then-available information, specified hereinafter, for each employee covered by this Agreement. The computer listing and diskette shall contain, to the extent practicable, the name, address, social security number, class code, classification, pay range and step, employing agency and initial date of hire for each employee covered by this Agreement. MSEA shall indemnify, defend and hold the State harmless against all claims and suits which may arise as a result of the State's furnishing such listing and tape to MSEA.

2. Upon mutual agreement, the State and MSEA will use technology available to each party for the purpose of receiving the aforementioned electronic data in the most efficient manner possible. By

mutual agreement, such information transmitted to MSEA in a hard copy format will be transmitted electronically after agreement between the parties on format and content.

ARTICLE 24. EMPLOYEE DEVELOPMENT AND TRAINING

5. Capitol Security Police Officers will receive sixteen (16) hours of mandatory job training in each calendar year and shall, in addition, be given the opportunity for training in the handling of AMHI patients.

ARTICLE . EXPENSE REIMBURSEMENT

A. Mileage Allowance

1. Employees shall be paid a mileage allowance of twenty-two cents (\$.22) per mile for use of their personal vehicles on State business.

Effective July 1, 1997, the mileage allowance will be increased to twenty-three cents (\$.23) per mile.

Effective July 1, 1998, the mileage allowance will be increased to twenty-four cents (\$.24) per mile.

2. Employees who are handicapped and who operate their own personal wheelchair lift or other specially equipped vehicle on State business shall receive a mileage reimbursement rate of forty-five cents (\$.45) per mile.

B. Lodging and Meal Expenses

1. Employees in travel status in the performance of their duties shall be entitled to expenses of necessary lodging and/or meals as provided for in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy.

Nothing contained in this Article shall be deemed to alter the present State policy prohibiting reimbursement for noon meals unless the meal is part of an organized meeting or program or overnight travel.

2. Estimated travel expenses shall be advanced to employees when reasonable and when requested. Any reimbursement of expenses shall be made as soon as possible following the submission of expense reports.

3. Ferry Service employees on unscheduled or unexpected stopovers away from their home ports during meal times shall be entitled to reasonable meal expenses, not to exceed the dollar amounts for breakfast, lunch and dinner listed in Section 40 of the Manual of Financial Procedures, Travel and Expense Reimbursement Policy.

4. Receipts shall not be required for reimbursement for meals eight dollars (\$8.00) and under.

5. Meal allowances for extended days will be paid at the rate of five dollars (\$5.00) for breakfast and fourteen dollars (\$14.00) for dinner.

6. Notwithstanding this provision, no employee shall receive less than the per diem reimbursement allowance of twenty-two dollars (\$22.00) which was authorized prior to the adoption of this provision.

D. Uniform Maintenance Allowance

The State shall continue to supply uniforms to employees whom it requires to wear uniforms as a condition of employment. When uniform maintenance is the responsibility of the employee, such employee shall be paid a uniform maintenance allowance of two hundred dollars (\$200.00) per year unless the State makes other arrangements for uniform maintenance. The classifications of Fire Investigator; Fire Inspector; Liquor Enforcement Officer; Marine Patrol Officer; Marine Patrol Specialist; Marine Patrol Pilot; Game Warden; Game Warden Specialist; Game Warden Pilot; Capitol Security Police Officer; and Capitol Security Police Sergeant which currently utilize an all wool or wool blend uniform which requires dry cleaning only shall receive an additional fifty dollars (\$50.00) per year for a total of two hundred fifty dollars (\$250.00). Should the State replace the dry clean only uniforms with wash and wear equivalents the additional fifty dollars will be discontinued and the employees would revert to the two hundred (\$200.00) allowance. The uniform maintenance allowance shall be paid to full-year employees on a semiannual basis in January and July and shall be prorated for those employees who become eligible or terminate State service between the semiannual payments. Seasonal employees shall be paid the uniform maintenance allowance on a monthly basis provided that such employee is in pay status as of the fifteenth (15th) of any calendar month.

The parties agree that the employees in the Forest Ranger classifications will be provided an all-purpose uniform rather than separate work and dress uniforms as provided by current practice. Details concerning the all-purpose uniform will be mutually agreed to by the parties.

The classes currently receiving uniforms and which shall be eligible for the uniform maintenance allowance are as follows:

Fire Inspector
Fire Investigator
Liquor Enforcement Officer
Campground Ranger I

Campground Ranger II
Campground Ranger III
Forest Ranger I
Forest Ranger II
Forest Ranger III
Forest Ranger Pilot
Forest Fire Prevention Specialist
Marine Patrol Officer
Marine Patrol Pilot
Marine Patrol Specialist
Game Warden
Game Warden Specialist
Game Warden Pilot
Capitol Security Police Officer
Capitol Security Police Sergeant

G. Corporate Credit Cards

The State shall provide Corporate Credit Cards for those employees who travel as part of their jobs. This Corporate Credit Card shall be issued in the name of the employee with the State and Agency name affixed. The payment of the monthly credit card bill will be the responsibility of the employee. Also, it will be the responsibility of the employee to submit periodic expense reports as determined by the respective Department. Late charges which result from the State's failure to reimburse employees in a timely manner will be the responsibility of the State. Personal charges on the Corporate Credit Card will be prohibited. Failure to pay credit card bills as required or personal use of the credit card may result in revocation of credit card privileges.

ARTICLE . GRIEVANCE PROCEDURE

Change the following paragraph to read as follows:

2. Procedure

2.3 Step 3: If the grievance is not resolved at Step 2, within ten (10) workdays after receipt of the written decision of the department or agency head the employee and/or his/her representative may appeal to the State Director of Employee Relations by filing with him/her a written notice of appeal, together with copies of the written grievance and the Step 2 decision. The Director of Employee Relations or his/her representative may meet with the employee and/or his/her representa-

tive and shall provide the employee and/or his/her representative with a written decision within fifteen (15) workdays of receipt of the appeal; or, if a meeting is held, within ten (10) workdays after the conclusion of such meeting.

ARTICLE . LABOR/MANAGEMENT COMMITTEES

A. Statewide

The Labor/Management Committee established by the previous contracts shall continue.

Committee members may participate in the work of the Committee during working hours without loss of pay or benefits.

B. Building Safety

There shall be established a Labor/Management Committee concerning the safety of State Buildings. The Committee shall be made up of one representative from each of the following bargaining units: Representing Labor - Administrative Services; Operations, Maintenance and Support Services; Law Enforcement; Professional and Technical Services; Supervisory Services; Institutional Services; and State Police Unit and an equal number of management representatives selected by the Governor. Committee members may participate in the work of the committee during working hours without loss of pay or benefits.

C. Employee Health

There is established by law (Title 5, Chapter 13, Subchapter II, Section 285-A) the State Employee Health Commission. Commission members who are covered by this agreement may participate in the work of the Commission during work hours without loss of pay and benefits.

D. Layoffs

There shall be an Ad Hoc Labor/Management Committee established to explore opportunities to improve and enhance the layoff/bumping process in order to minimize the impact that reductions in force have on employees and State operations. The Committee shall be made up of one representative from each of the following bargaining units: Representing Labor - Administrative Services; Operations, Maintenance and Support Services; Law Enforcement Services; Professional and Technical Services; and Supervisory Services and an equal number of management representatives selected by the Bureau of

Employee Relations. Committee members may participate in the work of the Committee during working hours without loss of pay or benefits. The Committee shall report its findings and recommendations, if any, to the parties by January 1, 1998.

E. Catastrophic Illness/Accident Leave Pool

There shall be established an Ad Hoc Committee to investigate the feasibility of establishing a Catastrophic Illness/Accident Leave Pool. The Committee shall consist of one representative from each of the following bargaining units: Administrative Services; Operations, Maintenance and Support Services; Law Enforcement Services; Professional and Technical Services; and Supervisory Services; and an equal number of management representatives. Committee members may participate in the work of the Committee during working hours without loss of pay or benefits. The Committee shall report their findings to the parties by January 1, 1998.

F. Physical Fitness Assessment Program

There shall be established an Ad Hoc Committee to study and make recommendations to the parties regarding implementation of a Physical Fitness Assessment Program. The Committee shall be comprised of one (1) employee representative appointed by the Union, from each of the affected agencies and an equal number of management representatives appointed by agency Commissioners. Subcommittees may be appointed at the agency level to discuss issues which are particular to an agency and shall coordinate their activities with and report to the central Ad Hoc Committee. The Committees shall meet at times mutually agreeable to labor and management representatives. Committee members may participate in the work of the Committees during working hours without loss of pay or benefits. The central Ad Hoc Committee will report their findings to the parties by April 1, 1998.

G. Twenty-four Hour On-Call Status

There shall be established an Ad Hoc Committee to study and make recommendations to the parties regarding the requirement for twenty-four (24) hour reachability under the terms of the Memorandum of Agreements. The Committees shall be comprised of three (3) employee representatives appointed by the Union, from each of the affected agencies and an equal number of management representatives appointed by agency Commissioners. The Committees shall meet at times mutually agreeable to labor and management representatives. Committee

members may participate in the work of the Committees during working hours without loss of pay or benefits. The Committees will report their findings to the parties by April 1, 1998.

ARTICLE 48. RECLASSIFICATIONS

3. Except for reclassifications and reallocations in connection with a reorganization, any reclassification or reallocation decision of the Director of Human Resources or the Arbitrator or Alternate shall be effective as of the date of the written initiation of the reclassification or reallocation request by the employee, MSEA or State and shall be implemented retroactively when the funds are provided pursuant to budgetary procedures.

The State shall pay the employee reclassified or reallocated interest of one percent (1%) per month on all monies due as a result of the reclassification or reallocation from the date of the final decision until payment.

Effective July 1, 1997, the State shall pay the employee reclassified or reallocated interest of two thirds of one percent (2/3%) per month on all monies due as a result of the reclassification or reallocation from the date of the final decision until payment. However, any employee with a pending reclassification action in process prior to July 1, 1997, shall be entitled to interest payment of one percent (1%) per month on all monies due.

ARTICLE 52. RETIREMENT CONTRIBUTION REFUNDS

Refund of an employee's accumulated contributions to the Member's Contribution Fund of the Maine State Retirement System shall be made within the time frame provided by law. Currently, refunds shall be made within sixty (60) days after receipt by the System of an application for refund.

ARTICLE 54. SENIORITY

O. Lateral Transfers

The State agrees that during the life of the 1997-1999 Law Enforcement unit collective bargaining agreement (until June 30, 1999) to make no changes in the existing departmental policies dealing with lateral transfers within each applicable department.

ARTICLE 57. SICK LEAVE

Change the following paragraph to read as follows:

2. Sick leave may be used for illness, necessary medical or dental care, or other disability of the employee or a member of the employee's immediate family which requires the attention or presence of the employee. Immediate family shall mean the spouse, the parents of the spouse, the parents, stepparents, guardian, children, stepchildren, brothers, stepbrothers, sisters, stepsisters, wards, grandparents and grandchildren of the employee. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits available under the Federal Family and Medical Leave Act. A medical examination or doctor's certificate may be required on account of use of sick leave for five (5) or more consecutive workdays, or because of repeated absences on days preceding or days following a holiday or weekend. When a medical examination or doctor's certificate is required on account of use of sick leave in excess of five (5) consecutive workdays, such shall not be at the State's expense.

ARTICLE 58. STATE VEHICLES AND EQUIPMENT

6. Marine Patrol Officers shall be provided forms for weekly reports which will permit them to retain copies of such reports for their own files.

ARTICLE 61. UNPAID PERSONAL LEAVES OF ABSENCE

Change the following paragraph to read as follow:

1. Any employee may apply for an unpaid personal leave of absence for good and sufficient reason. Leave pursuant to this provision may be for a period not exceeding twelve (12) months in any fourteen (14) consecutive months. Such leave may be granted at the discretion of the appointing authority and shall not be unreasonably denied. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits available under the Federal Family and Medical Leave Act. All requests for such leave and responses shall be in writing. The application for leave must specifically state the reasons for such application and the length of time requested. After completion of a period of personal leave of absence, the employee shall be entitled to return to the organizational unit, status and position held immediately prior to the beginning of the leave of absence. If the employee's position is abolished during any such leave, he/she shall be notified and allowed to exercise his/her rights under the Seniority Article of this Agreement.

NEW ARTICLE

ARTICLE . VIDEO DISPLAY TERMINAL OPERATORS

1. No employee shall be required to work more than two (2) continuous hours on a video display terminal. Employees whose job assignment requires them to work on VDT's should be assigned other work or activities for thirty (30) minutes for each two (2) hours of continuous work on the terminals. Rest and meal periods shall be counted toward the thirty (30) minutes.

2. Any employee who is newly assigned to a position, which by actual work consists of a least eighty percent (80%) VDT operation, including alternate work time under paragraph 1 of this Article, shall be required to submit to an examination by an eye doctor at the State's expense within sixty (60) days of the employee's assignment to the position.

3. All employees who spend at least eighty percent (80%) of their time operating VDT's, including alternate work time under paragraph 1 of this Article, shall be entitled to be examined by an eye doctor annually at the State's expense. All employees receiving eye examinations pursuant to this Article must provide the State with medical releases. Employees shall be given a report form to be completed by the eye doctor and returned to the agency Personnel Officer.

4. All employees receiving such annual eye examinations shall receive the sum of fifty dollars (\$50.00) toward the cost of corrective lenses or glasses needed by the employee as indicated on the report form of the doctor.

ARTICLE 69. WORKERS' COMPENSATION

Amend the following paragraph to read as follows:

If an employee who is terminated pursuant to this Article is eligible for and makes application for disability retirement, the State shall continue to provide the employee's group health insurance and shall continue to pay the cost of the employee's coverage, as well as sixty percent (60%) of the dependent coverage, until the employee receives his/her first disability retirement check or until six (6) months after the termination, whichever occurs first.

ARTICLE 70. TERM OF AGREEMENT

This Agreement shall be effective as of the signing of this Agreement until June 30, 1999, unless otherwise specifically provided herein. Either

party shall give sixty (60) days' written notice of a desire to negotiate a new collective bargaining agreement or to modify this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective representatives on _____.

MEMORANDUM OF AGREEMENT FIRE INVESTIGATORS

4c. Weekend or Holiday Standby for Fire Investigators

When a Fire Investigator is required to perform weekend or holiday standby, he/she shall be entitled to be paid sixteen percent (16%) of his/her base hourly rate for each hour of standby, or in lieu of the sixteen percent (16%) an employee may, at his/her option, receive an equivalent amount of compensating time. When Fire Investigators are called out during their weekend standby tour, they shall be compensated in accordance with Section 3b. Call Out of the Memorandum of Agreement attached to the bargaining agreement.

The weekend tour of duty shall start at 1700 hours Friday and continue until 0800 the following Monday. In the event that a holiday immediately precedes or follows the weekend, standby duty shall, respectively, either start at 1700 hours Thursday or continue until 0800 hours the following day.

1. Fire Investigators will provide immediate response for the following "bona fide emergencies":

- a.** Fatal fires
- b.** Serious personal injury incidents
- c.** Amusement ride accidents requiring immediate investigation
- d.** Any life threatening situation requiring immediate investigation by the Fire Marshal's Office

2. Fire Investigators may respond to other requests for their services from Fire or Law Enforcement Officials when approval is secured from the weekend duty officer, the Fire Marshal or his Assistant.

3. Fire Investigators may, by mutual agreement and with prior approval, be permitted to conduct safety, equipment and operational inspections of amusement devices, motor vehicle racing and thrill shows, fireworks exhibitions, circus and carnivals and other functions regulated and permitted within their jurisdiction.

4. On Call - There shall be one Fire Investigator from the Northern Division and One Fire Investigator from the Southern Division

placed on-call without additional compensation from 1700 hours on Monday until 1700 hours on Friday unless there is a holiday during that week. In that case, the on-call time ceases when the compensated standby commences or ceases. The investigator on call is required to be available for immediate response to an incident, pursuant to Section 1, Paragraph 6 of this Agreement. A rotational on-call list shall be developed (similar to the presently used "Weekend Duty Roster") and maintained to provide the name of the on-call investigators. This roster shall be developed and distributed to the parties. The rotational list shall designate one investigator to be on call in each investigative division (North/South). This rotational list is subject to change upon prior approval of the Supervisor in that Investigators shall have the right to trade or relinquish periods on call.

5. An Investigator Incident Response List shall be developed and used for contacting/assigning Investigators to incidents during other than normal working hours. This list shall identify the first Investigator to be contacted as the primary investigator for the area in which an incident occurs. The second and subsequent Investigators contacted shall be listed by descending order of geographical proximity to the incident location. This list shall be developed and mutually agreed upon by both parties.

6. Each Investigator may decline response to the assignment only for hardship reasons or that the Investigator is unfit for duty. The Investigator who is identified as the on-call Investigator may not refuse the assignment, and must be available for response.

7. When an incident occurs the Supervisor shall attempt contact with the Investigators by use of the Incident Response List. Initial contact shall be via telephone as well as telephone pager. The Investigators have fifteen (15) minutes to respond to a call. During this time, the Supervisor may continue down the Incident Response List to alert and determine the availability of the next Investigator.

Every effort will be made to adhere to the Incident Response List. However, in the event of extreme circumstances, a supervisor may not adhere to the Incident Response List. This decision shall not be arbitrary or capricious.

LAW ENFORCEMENT SPECIAL AGREEMENT COMPENSATING TIME BUY BACK

Add as last paragraph to existing 3B. of Special Agreements for:

Game Wardens and Warden Specialists
Marine Patrol Officers and Marine Patrol Specialists
Fire Investigators

Forest Ranger II's, III's
Liquor Enforcement Officer I's
Motor Vehicle Investigators

1. All employees may buy back accrued compensatory hours from the unused available overtime money remaining on May 1, 1997, 1998 and 1999 and allocated for overtime expenditure for FY '97, FY '98 and FY '99 pursuant to Section 3B of the Memorandum of Agreement for _____. The buy-back shall be automatic for all employees. Those employees not wanting to participate in the buy-back shall notify his/her supervisor on or before May 1, of each year. The buy-back shall be made from the maximum three hundred (300) hours permitted, and any additional hours accrued over the maximum shall be taken as soon as possible, pursuant to Section 3E of the Agreement. For the remainder of FY '97, FY '98 and FY '99 employees will be compensated for all call-out and extended shift hours in excess of twelve (12) hours, at the rate of one and one-half (1½) hours of compensatory time for each hour worked. Payment shall be made to employees on or before the end of each fiscal year, in a check separate from the employees' regular paycheck.

Tentatively agreed to:

Date: 2/11/97

Kenneth A. Walo
Kenneth A. Walo
Chief Negotiator
State of Maine
Bureau of Employee Relations

Kenneth A. Dietrich
Kenneth A. Dietrich
Chief Negotiator
Maine State Employees Association

September 19, 1996

**SUMMARY OF CHANGES IN THE 1997-1999 AGREEMENT BETWEEN
THE STATE OF MAINE AND THE AMERICAN FEDERATION OF
STATE, COUNTY & MUNICIPAL EMPLOYEES**

RECOGNITION

- Acknowledgment of Maine Labor Relations Board Decision 91-UCA-02.

**ARTICLE 8 - Classifications/Reclassifications
Allocations/Reallocations**

- AFSCME will receive both the appeal decision and request form upon issuance of a BHR decision.
- Provides for payment of one twelfth (1/12) of the Consumer Price Index (CPI) per month on all moneys due as the result of reclassification or reallocation from the date of the final decision.

ARTICLE 10 - Compensation

- Provides a lump sum payment equal to 2.25% of base rate for the previous calendar year 1996.
- Provides a base salary increase of two percent (2%) effective the start of the pay week commencing closest to July 1, 1997.
- Provides a base salary increase of two percent (2%) effective the start of the pay week commencing closest to July 1, 1998.

ARTICLE 14 - DISCIPLINE

- Adds language to conform to recent court decisions relative to due process obligations of public sector employees.
- Removes language which is incorporated into a new article entitled Personnel Files

ARTICLE 22 - Grievance Procedure

- Provides discretion to Bureau of Employee Relations with regard to holding a grievance hearing with the parties.
- Requires written response within fifteen days following receipt of appeal if no hearing is held.

ARTICLE 23 - Health, Life Insurance

- Deletes reference to seasonals.

NEW ARTICLE - Labor/Management Committees

- All Labor/Management Committees are placed within this article and Employee Health is added to the committee listing.

NEW ARTICLE - Personnel Files

- New language consistent with the MSEA agreements.

ARTICLE 45 - Sick Leave

- Adds reference to consultation with applicable agency/department Personnel Officer to determine eligibility for benefits under the Federal Family and Medical Leave Act.

ARTICLE 49 - Unpaid Leave of Absence

- Adds reference to consultation with applicable agency/department Personnel Officer to determine eligibility for benefits under the Federal Family and Medical Leave Act.

ARTICLE 55 - Workers' Compensation

- Increases dependent coverage from fifty percent (50%) to sixty percent (60%) (housekeeping change only).

ADDENDUM

- Effective with the start of the pay week commencing closest to the signing of the Agreement, the regularly scheduled hours of all employees in the following classifications will be increased by one-half hour (1/2) hour: Training School Counselor I, Training School

Counselor II, Correctional Officer I, Correctional Officer II, Guard and Guard Sergeant.

- Effective with the start of the pay week commencing closest to January 1, 1998, the above-referenced employees will have their regularly scheduled hours increased by an additional one-half hour (1/2 hour).
- Effective with the start of the pay week commencing closest to January 1, 1999, the above-referenced employees will have their regularly scheduled hours increased by an additional one-half hour (1/2 hour).

ARTICLE 1

Recognition

Pursuant to the Maine Labor Relations Board certification dated May 2, 1977, the State recognizes Council #93, American Federation of State, County and Municipal Employees, AFL-CIO, as the sole and exclusive bargaining representative for negotiations with respect to wages, hours of work and other conditions of employment for employees as defined in Section 979-A(6) of the State Employees Labor Relations Act (as revised and effective July 30, 1976), who were included in the certification and have worked a continuous period of six (6) months or more and are other than project, intermittent or temporary employees, and including those employees found to be covered pursuant to 91-UCA-02. In the event of any dispute over a particular application of that decision either party may file a unit clarification petition with the Board. Both parties agree to expedite the processing of such petitions to the extent possible.

Part-time employees will be covered by the provisions of this Agreement, except those relating to benefits, upon the completion of one thousand forty (1,040) regularly scheduled hours of work. For the purpose of being eligible to participate on a prorated basis in the benefits provided in this Agreement, a part-time employee must have completed six (6) months of continuous service.

In the event of a dispute between the parties as to future inclusions or exclusions from the unit, either party to this Agreement may apply to the Maine Labor Relations Board for resolution of the dispute. Any new inclusions resolved either between the parties by mutual agreement or ordered by the Maine Labor Relations Board shall be made effective as of the date such agreement is made or on the date such matter is submitted to the Board for a determination.

Temporary and on-call employees excluded by law from the bargaining unit include project employees, persons from outside State service who are in acting capacity assignments, and intermittent employees. Project employees are employees appointed to a project position which is restricted to a planned work program to be completed within a specified period of time and which is not regularly recurring. Intermittent employees are employees who are appointed for a period of time on a sporadic basis and who work not more than one thousand forty (1,040) hours in any consecutive twelve (12) month period beginning with the date of hire or anniversary of date of hire.

An employee designated as intermittent who works in excess of the limits set out above, and who works more than one thousand forty (1,040) regularly scheduled hours during the period since appointment

as an intermittent employee, without a break in service due to resignation or dismissal, shall be covered by the terms of this Agreement. The sporadic periods such an employee is not in pay status because of the sporadic nature of the position shall not be considered to be a break in service. Where a legislative position count permits, such employees shall be placed in a permanent or limited period full time or part-time position as appropriate provided that he/she is eligible for appointment. If necessary, the employee may reopen the appropriate register to establish eligibility.

Nothing in this Article shall be interpreted as removing any rights or benefits of temporary, intermittent or project employees provided under Title 5 M.R.S.A., §553(A) and §559, Public Law 667, 1978, or any other provision of law or rules.

ARTICLE 8

Classifications/Reclassifications **Allocations/Reallocations**

Definitions. For the purpose of this Agreement, the following terms are defined as follows:

A. Classification and Reclassification:

Classification and reclassification are the assignment or reassignment, respectively, of a position or group of positions to an occupational classification which is appropriate for compensation and employment purposes.

B. Allocation and Reallocation:

Allocation and reallocation are the assignment or reassignment, respectively, of a classification to the appropriate grade in a compensation plan.

1. AFSCME may appeal to final and binding arbitration a determination of the Director of Bureau of Human Resources on the classification, reclassification, allocation or reallocation of a position or classification. AFSCME shall be afforded a copy of both the appeal decision and request form upon issuance of the Director of the Bureau of Human Resources. Such appeal shall be made within fifteen (15) workdays of the Director's determination. The parties shall agree to a permanent Arbitrator and alternate. Both shall be experienced arbitrators in job evaluation disputes. If the parties cannot agree on the Arbitrator and alternate, they shall seek the assistance of the American Arbitration Association. The parties shall share equally the costs and

expenses of the Arbitrator and alternate and each party shall bear the cost of preparing and presenting its own case. The State will notify the Union of any decisions reached concerning any requests for a reclassification and/or reallocation at the same time the agency is notified.

2. The Arbitrator or alternate shall not assign any existing classification to a new salary grade unless there has been a change in duties, except as provided below. The Arbitrator's or alternate's decision shall be final and binding on:

- a.** The combination or merging of classifications and the allocation of the resulting new classifications to pay grades;
- b.** Reclassification or pay grade allocation of positions the duties of which have changed since their last classification or allocation;
- c.** Reclassification or pay grade reallocation of positions whose duties change hereafter;
- d.** Assignment to classification or the establishment of new classifications for new positions; and
- e.** Establishment of separate classifications and pay grade allocations for positions within the same classification on the basis of significant differences in duties.

3. Any reclassification or reallocation decision of the Director of Bureau of Human Resources or the Arbitrator or alternate shall be effective as of the date of the written initiation of the classification or reallocation request by the employee, AFSCME or State and shall be implemented retroactively when funds are provided pursuant to budgetary procedures.

4. No employee shall be reduced in salary as a result of reclassification or reallocation.

5. The State shall pay the employee reclassified or reallocated interest equal to one twelfth (1/12) of the Consumer Price Index (CPI) per month on all moneys due as a result of the reclassification or reallocation from the date of the final decision until payment. For the purposes of this section, the Consumer Price Index (CPI) to be used for each month in a calendar year shall be the Consumer Price Index (CPI) published in January of that year.

6. The provisions of this Article (8) will be effective as provided in Article 56 (Term of Agreement); provided, however, that the provisions of this Article shall be reopened for negotiations upon thirty (30) day written notice, or demand to reopen given by either party when such notifying party has concluded that reopened negotiations are necessary relative to current compensation system bargaining being conducted pursuant to 26 M.R.S.A. §979-D(1)(E)(1)(g), (h), and (i). Such reopened

negotiations shall be conducted only as part of compensation system bargaining and only pursuant to 25 M.R.S.A. §979-D(1)(E)(l)(h).

ARTICLE 10

Compensation

Within thirty days of the signing of this Agreement, each person employed by the State on the date of the signing of this Agreement shall receive a lump sum payment equal to 2.25% of the base rate paid to the employee for the first twenty-six (26) paychecks in calendar year 1996.

Effective with the start of the pay week commencing closest to July 1, 1997, employees in this unit shall receive a base salary increase of two percent (2%).

Effective with the start of the pay week commencing closest to July 1, 1998, employees in this unit shall receive a base salary increase of two percent (2%).

ARTICLE 14

Discipline

Disciplinary action shall include the following:

Oral reprimand

Written reprimand

Suspension (in writing)

Demotion (in writing)

Discharge (in writing)

The listing of actions above is not to be construed as being necessary in progression or limiting the appointing authority or his/her designee's discretion as to which action to take.

Should it become apparent during a counseling session between an employee and his/her supervisor that action beyond the documentation of such meetings is necessary, the meeting shall be terminated until such time as a Union representative may be present. Documentation of such counseling sessions or meetings may become a part of the employee's record.

When there is a possibility that an employee may be disciplined with a written reprimand, suspension from work, demotion or discharge, such employee will be notified in writing of the possibility within fifteen (15) days of the incident giving rise to the possible discipline or within fifteen (15) days of when the State first had knowledge of the incident. The provisions of this section are not to be construed as preventing

disciplinary action being taken within the aforementioned fifteen (15) day period.

When the possibility exists that serious disciplinary actions (suspensions, demotions, discharge) or allegations of client/patient/inmate/student abuse will occur, the State must, providing that the employee involved has completed his/her initial probationary period or extension thereof, hold a discipline hearing. The employee involved, if he/she so chooses, shall be entitled to representation by a Union representative. In alleged matters of client/patient/inmate/student abuse, administrative leave or other temporary action may be taken to protect the residents, inmates, students until said hearing can be held which does not result in a loss of pay for the employee involved. Such action shall not constitute discipline under this Article. Said hearing will be held prior to any disciplinary action being taken. In the event the disciplinary hearing involves allegations of client/patient/inmate/student abuse and the allegations are substantiated, the employee shall be terminated.

No employee covered by this Agreement shall be suspended without pay, demoted or dismissed without first having been given notice in writing of the disciplinary action to be taken. The conduct for which disciplinary action is being imposed and the action to be taken shall be specified in a written notice. Any employee receiving a notice of suspension, demotion, or dismissal will be afforded an opportunity to meet with the appointing authority or his/her representative prior to the action proposed. A Union representative/steward may be present. At that meeting the appointing authority or his/her designee will give the employee an explanation of the employer's evidence against the employee (if that has not already been provided) and offer the employee an opportunity to respond.

Should an employee be suspended or discharged and it is later proved unjustified, the employee shall be reinstated to his/her regular job and shall be made whole (including but not limited to full compensation for all lost time and to full restoration of all other rights and conditions of employment), minus any moneys earned in another job or any moneys paid the employee as unemployment benefits which the employee is not required to return to the unemployment agency.

Any disciplinary action taken on an employee whose name is on the seniority list shall be for just cause and may be processed through the Grievance and Arbitration Procedure.

Grievances concerning disciplinary suspensions from work, demotions and discharges from employment may be entered at Step 3 of the Grievance Procedure.

All records of employee discipline shall be retained in the employee's personnel file. Records may be removed by mutual agreement of a duly authorized representative of AFSCME - Council #93 and the appointing authority or his/her designee.

Employer representatives and employees shall show mutual respect and courtesy toward each other with the objective of promoting harmonious relationships.

ARTICLE 22

Grievance Procedure

2. Procedure

Delete current Step 4 language and replace with the following:

Step 4. An employee and/or Union (Executive Director or his designee) may appeal the written Step 3 decision within ten (10) workdays of its receipt by filing a written notice with the Director of the Bureau of Employee Relations or his designee. Such an appeal must be specific in stating the reasons for appealing the decision. The Director of the Bureau of Employee Relations, or his/her designee, may meet with the grievant and/or Union representative for a review of the grievance and shall provide the employee and the Union with a written response within fifteen (15) workdays of receipt of appeal; or, if a hearing is held, within ten (10) workdays after the conclusion of the hearing.

ARTICLE 23

Health, Life Insurance

The State shall pay the basic group life insurance premiums for those employees who are members of this bargaining unit. This provision shall not diminish the right of employees to carry additional insurance on themselves or their dependents under present statutes.

The State shall provide health plan coverage for employees pursuant to Title 5 §285. The State shall pay sixty percent (60%) of the cost of dependent premium for each eligible employee who selects dependent coverage.

Part time employees hired into permanent full-time positions will be allowed to apply for health insurance within sixty (60) days of the permanent appointment with no evidence of insurability.

ARTICLE

Labor/Management Committees

Employee Assistance Labor Management Committee

There shall be a broad-brush comprehensive EAP to provide confidential assessment and referral services for State employees. The EAP is intended to aid State employees and their families, and retirees, in cases where personal problems of any nature are having a detrimental effect on the employee's job performance. Services provided directly by the EAP shall be at no cost.

There shall be a Labor Management Committee on the State EAP. The Committee shall be comprised of a representative of each State bargaining unit represented by AFSCME - Council #93 and an equal number of management representatives selected by the Governor. Committee members may participate in Committee activities during work hours without loss of pay or benefits. The purpose of the Committee is to advocate, support and review the operation of the State EAP to assure a program which enhances the productivity, performance, working conditions, morale and quality of life of State employees. The role of the Committee is to work with the program administrator to maintain effective program operation for employees, retirees and their families.

Labor/Management Committee on Safety

There shall be established a Labor/Management Committee concerning the safety of State Buildings. The Committee shall be made up of one (1) representative from each of the following bargaining units: Representing Labor - Administrative Services; Operations, Maintenance and Support Services; Law Enforcement; Professional and Technical Services; Supervisory Services; Institutional Services; and State Police units and an equal number of management representatives selected by the Governor. Committee members may participate in the work of the committee during working hours without loss of pay or benefits.

Employee Health

There is established by law (Title 5, Chapter 13, Subchapter II, Section 285-A) the State Employee Health Commission. Commission members who are covered by this agreement may participate in the work of the Commission during work hours without loss of pay and benefits.

ARTICLE

Personnel Files

An employee, upon written request to or after prior arrangement with the State Bureau of Human Resources, or the appropriate official at his/her work location or in his/her agency, shall be permitted to review his/her personnel files. Such review shall take place during normal office hours and shall be conducted under the supervision of the appropriate records custodian or agency representative. An employee may review his/her personnel files at reasonable times during his/her regular work hours if such review does not require travel out of the normal work area. An employee shall be allowed to place in such file a response of reasonable length to anything contained therein which the employee deems to be adverse.

An employee's personnel file shall include, but not be limited to, all memoranda and documents relating to such employee which contain commendations, employee performance appraisals or ratings and records of training programs completed.

Upon request an employee shall be provided a copy of any or all materials in his/her personnel files provided that such copies shall be provided at the employee's expense. Copies of material added to the employee's personal file after the effective date of this Agreement shall be furnished at the State's expense and sent to each employee simultaneously with it being placed in his/her personnel file.

Upon request of an employee, records of reprimands and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client/inmate/student abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.

Any material inserted into an employee's personnel file shall be dated, shown to the employee and the employee shall initial same, attesting only to the fact that he/she has seen and is aware of the material being put into his/her personnel file. Any material not so processed, cannot be used against an employee in any present and/or future disciplinary action.

ARTICLE 45

Sick Leave

Sick leave shall be earned at the rate of one (1) workday for each completed full month of service. Service shall begin on the date of State employment and time on layoff, suspension, or leave without pay, except as otherwise provided by law or these rules, shall not be counted in determining the completion of a full month of service. The maximum amount of sick leave which employees may accumulate shall be one hundred and twenty (120) days. However, the amount of unused sick leave accruals which can be credited towards State service for retirement purposes shall continue as presently provided for by statute. When the maximum limitation has been accumulated, days that would normally thereafter be earned shall lapse but shall be recorded by the appointing authority. Any employee who has such lapsed sick leave to his/her credit may apply to the Director of Human Resources to have the sick leave restored in the event of an extended illness. The Director of Human Resources at his/her discretion may authorize restoration of all or any part of the lapsed sick leave after thorough investigation, including complete medical reports of the illness requiring the continued absence of the employee. Part-time employees employed normally year round and established on a regular hourly work schedule shall be allowed sick leave credits prorated on the amount of time worked.

Employees may utilize their allowance of sick leave on the basis of application therefore, approved by their respective appointing authorities for absences necessitated by inability to perform the duties of their positions by reason of illness or injury, by necessity for acute medical or dental care, by exposure to contagious disease under circumstances in which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by attendance on duty, or by illness in the immediate family of the employee for such periods as the attendance of the employee shall be necessary. Immediate family as used in this Article shall mean the spouse and parents of the spouse and the parents, stepparents, guardian, children, stepchildren, brothers, sisters, stepbrothers, stepsisters, wards, grandparents and grandchildren of the employee. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits under the Federal Family and Medical Leave Act. Either the appointing authority or the Director of Human Resources may require such medical examination or certificate as they deems necessary before approving the utilization of sick leave.

All sick leave shall expire on the date of separation from the State service, and no employee shall be reimbursed for sick leave outstanding at the time of termination of his/her State employment.

A former State employee who is reappointed within four (4) years of his/her separation from the service under the provisions of the Personnel Law and these rules, with probationary or permanent status, may have his/her previously accumulated and unused balance of sick leave revived and placed to his/her credit upon approval of the new appointing authority.

**[Effective upon implementation of the MFASIS
Project's Leave Accrual Module]**

ARTICLE 45

Sick Leave

Sick leave credit shall be earned at the rate of 3.693 hours for a completed full two (2) week period of service. Sick leave shall be earned from the employee's date of employment and the time on layoff, suspension or leave without pay, except as otherwise provided by law or these rules, shall not be counted in determining the completion of a full two (2) week pay period of service.

A part-time or intermittent employee shall earn sick leave as follows:

A part-time or intermittent employee shall earn .924 hours of sick leave for each twenty (20) hours in pay status per two (2) week pay period. For part-time employees, "hours in pay status" shall be an employee's regularly scheduled hours. Employees may accumulate unused sick leave up to a maximum of nine hundred sixty (960) hours. However, the amount of unused sick leave accruals which can be credited towards State service for retirement purposes shall be seven hundred twenty (720) hours. For part-time or intermittent employees, the maximum accumulation of sick leave and the amount of unused sick leave which can be credited towards State service for retirement shall be a percentage of nine hundred sixty (960) hours and seven hundred twenty (720) hours, respectively, equal to twenty-five percent (25%) for each twenty (20) hours in pay status per two (2) week pay period. When the maximum limitation has been accumulated, days that would normally thereafter be earned shall lapse but shall be recorded by the appointing authority. Any employee who has such lapsed sick leave to his/her credit may apply to the Director of Human Resources to have the sick leave restored in the event of an extended illness. The Director of Human Resources at his/her discretion may authorize restoration of all

or any part of the lapsed sick leave after thorough investigation, including complete medical reports of the illness requiring the continued absence of the employee.

The current practices concerning the earning of sick leave credits for employees regularly scheduled to work in excess of forty (40) hours per week shall be continued.

Employees may utilize their allowance of sick leave on the basis of application therefore, approved by their respective appointing authorities for absences necessitated by inability to perform the duties of their positions by reason of illness or injury, by necessity for acute medical or dental care, by exposure to contagious disease under circumstances in which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by attendance on duty, or by illness in the immediate family of the employee for such periods as the attendance of the employee shall be necessary. Immediate family as used in this Article shall mean the spouse and parents of the spouse and the parents, stepparents, guardian, children, stepchildren, brothers, sisters, stepbrothers, stepsisters, wards, grandparents and grandchildren of the employee. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits under the Federal Family and Medical Leave Act. Either the appointing authority or the Director of Human Resources may require such medical examination or certificate as they deem necessary before approving the utilization of sick leave.

All sick leave shall expire on the date of separation from the State service, and no employee shall be reimbursed for sick leave outstanding at the time of termination of his/her State employment.

A former State employee who is reappointed within four (4) years of his/her separation from the service under the provisions of the Personnel Law and these rules, with probationary or permanent status, may have his/her previously accumulated and unused balance of sick leave revived and placed to his credit upon approval of the new appointing authority.

ARTICLE 49

Unpaid Leave of Absence

An employee shall be eligible for an unpaid illness leave of absence upon completion of six (6) months' continuous service.

An employee shall be eligible for another type of unpaid leave of absence upon completion of his initial probationary period or justified extension thereof.

An unpaid leave of absence may be granted at the discretion of the appointing authority or his/her designee, and will be in writing and shall

not be arbitrarily or unreasonably withheld. Any dispute concerning the failure to grant a leave shall be entered at Step 3 of the Grievance Procedure. Employees who obtain leave under false pretenses, or use their leave for purposes other than specified at the time of approval, will be terminated.

Time spent on a leave of absence other than an unpaid sick leave shall not be credited toward seniority or longevity.

Time spent on unpaid sick leave shall be credited toward seniority but not longevity.

Any application must be in writing and specifically state reasons for such application and the length of time requested. Should the reason be for unpaid sick leave, such request must be substantiated with a physician's statement and the cost of such statement will be paid by the employee.

Upon return to work after completion of a period of a leave of absence, the employee shall be returned to the organizational unit and position held immediately prior to the beginning of the leave of absence.

Cancellation of Leaves of Absence

All leaves of absence shall be subject to the condition that the appointing authority may cancel the leave for just cause at any time upon prior written notice to the employee, specifying a reasonable date of termination of the leave, and the reason for such cancellation.

Upon prior notice to the employee, an approved leave of absence may be canceled at any time it is found that the employee is using the leave for purposes other than those specified at the time of approval.

Sick or Personal Injury Leave Without Pay

Upon application of an employee who has exhausted his/her paid sick leave time, a leave of absence without pay shall be granted by an appointing authority for a period of disability because of sickness or injury the first time a request is made for the same illness. The appointing authority may, from time to time, require that the employee submit a certificate from the attending physician certifying the need for continued leave, or from a designated physician (the fee of the designated physician shall be paid for by the State). In the event of a failure or refusal to supply such certificate, the appointing authority may cancel such sick leave and require the employee to report for duty on a specified date. Should the employee fail to report as required, his/her employment shall be terminated. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits under the Federal Family and Medical Leave Act.

Leaves of Absences Without Pay

Employees covered by this Agreement may be allowed to be absent from duty without pay for a period not exceeding a total of twelve (12) months in any fourteen (14) consecutive months on the basis of applications for leave without pay approved by their respective appointing authorities.

Childbearing and Adoption Leave

Unpaid childbearing or adoption leave shall be granted to an employee for a period not to exceed six (6) months exclusive of any period of disability covered in the Sick Leave Article. Employees shall have the opportunity of using accumulated compensatory time and annual leave during said period. Employees shall be allowed to retain insurance benefits during such leave. Except during any period covered by the use of compensatory time ~~or~~ annual leave, retention of insurance benefits shall be at the employee's expense. Employees are encouraged to consult with their agency/department Personnel Officer to determine if they are eligible for benefits available under the State or federal family and medical leave act. Employees may request up to an additional three (3) months extension for medical reasons provided they request this extension at least two (2) weeks prior to the date of return to work.

Except in cases of unpaid sick leave, employees must submit in writing his/her intent to return to work from an unpaid leave of absence at least two (2) weeks in advance of the date of the employee's return to work.

ARTICLE 55

Workers' Compensation

The State shall make every possible effort to promptly pay all compensation awards in accordance with the decisions of the Workers' Compensation Commission. Upon each award of the Workers' Compensation Commission, interest shall be assessed from the date on which the petition is filed at a rate of six percent (6%) per year, provided that if the prevailing party at any time requests and obtains a continuance for a period in excess of thirty (30) days interest will be suspended for the duration of the continuance. From and after the date of the decree, interest shall be allowed at the rate of ten percent (10%) per year.

Where an employee has been unable to work for one (1) year, the employee may be terminated from his or her position. Such termination shall not be considered disciplinary in any way. If the employee later becomes capable of performing the job duties of the position from which he/she was terminated, the employee may return to that position if it is vacant. If that position is filled, unfunded, or no longer exists, then the employee shall be entitled to be placed in a vacant position, or the next available position if no such vacancy exists in the same classification within the department or agency and for which the employee is qualified, and shall be treated as if on layoff status.

If an employee who is terminated pursuant to this Article is eligible for and makes application for disability retirement, the State shall continue to provide the employee's group health insurance and shall continue to pay the cost of the employee's coverage, as well as sixty percent (60%) of the dependent coverage, until the employee receives his/her first disability retirement check or until six (6) months after the termination, whichever occurs first.

In the event that any employee who has been terminated pursuant to this Article regains a work capacity and returns to work, the employee shall not lose the benefit of any prior years of State service immediately preceding his/her termination, for purposes of retirement, seniority, vacation accrual rate and restoration of sick leave credits.

ARTICLE 56

Term of Agreement **Termination**

Term of Agreement

This Agreement shall be effective as of the signing of this Agreement until June 30, 1999, unless otherwise specifically provided herein.

Termination

Unless otherwise specifically provided for herein, this Agreement shall apply to those employees in the bargaining unit on the date of the signing of this Agreement and shall be effective as of _____ 1997 and shall remain in full force and effect until the 30th day of June, 1999. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing at least one hundred twenty (120) days prior to the anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall

begin not later than ninety (90) days prior to the anniversary date; this Agreement shall remain in full force and be effective during the period of negotiations or until notice of termination of this Agreement is provided to the other party in the manner set forth in the following paragraph.

In the event that either party desires to terminate this Agreement, written notice must be given to the other party not less than ten (10) days prior to the desired termination date which shall not be before the anniversary date set forth in the preceding paragraph.

In witness whereof, the parties hereto have set their hands this _____ 1997.

**ADDENDUM TO 1997-1999
INSTITUTIONAL SERVICES AGREEMENT**

Effective with the start of the pay week commencing closest to the signing of the Agreement, all employees in the following classifications will have their regularly scheduled hours per week increased by one-half hour (1/2 hour).

Training School Counselor I
Training School Counselor II
Correctional Officer I
Correctional Officer II
Guard
Guard Sergeant

Effective with the start of the pay week commencing closest to January 1, 1998, the employees referenced above will have their regularly scheduled hours per week increased by an additional one-half hour (1/2 hour).

Effective with the start of the pay week commencing closest to January 1, 1999, the employees referenced above will have their regularly scheduled hours per week increased by an additional one-half hour (1/2 hour).

Duties performed during regularly scheduled overtime periods shall be determined by Management at each institution. It is agreed that there will be no impact bargaining as a result of the regularly scheduled overtime hours or any resulting schedule change.

Employees in the above listed classifications shall be scheduled to work on regular work shifts having regular but not necessarily uniform starting and quitting times. No regularly scheduled overtime hours will be on the employees days off.

Management will conduct informational labor/management meetings with AFSCME representatives at each institution prior to implementation of the additional time.

Tentatively agreed to:

9/18/96

Linda L. Lane

Linda L. Lane
Chief Negotiator
State of Maine
Bureau of Employee Relations

John Basso

John Basso
Chief Negotiator
AFSCME

**MEMORANDUM
BUREAU OF EMPLOYEE RELATIONS**

No.: 52

Date: April 10, 1998

Subject: **DOCUMENTS FOR GRIEVANCES**

To: All Holders of Employee Relations Manuals

From: Kenneth A. Walo, Director, Bureau of Employee Relations

Recently the Bureau of Employee Relations has experienced some difficulties in obtaining documents needed for arbitrations in a timely fashion. As you know, the State has a legal and contractual obligation to provide the employee unions with documents necessary to review and process grievances. It is in the interest of the State to provide all relevant documents to the unions so that they can evaluate whether a grievance has merit at the earliest possible stage. One of the most important roles a personnel officer plays in the grievance process is to make sure that all relevant documents and other evidence is collected and retained in a central file at the earliest stage of the grievance.

It is much easier to locate documents when the matter is fresh in the minds of the participants and decision makers. Once the matter is past the Step 3 phase, participants sometimes forget about the matter until they are notified that an arbitration is scheduled. This can result in critical tapes, notes, or other documents or exhibits being discarded or misplaced.

To assist you in deciding what materials should be collected and provided to the union, this Bureau has prepared a list of documents and materials which the union is entitled to obtain for discipline and contract interpretation cases. Such a list already exists for non-select cases.

**IMPORTANT BULLETIN - TO BE RETAINED IN EMPLOYEE
RELATIONS MANUAL**

UNION ACCESS TO INFORMATION IN DISCIPLINE CASES

This policy is established to clarify and make uniform the State's policy on the production of documents in discipline cases, and should be followed in all such cases.

The following documents should be released to the Union in discipline grievances when the specific documents or "all relevant documents" are requested after a grievance has been filed:

IF YOU HAVE A QUESTION ABOUT THE APPROPRIATENESS OF RELEASING A PARTICULAR DOCUMENTS TO THE UNION, OR IF THERE IS ANY QUESTION ABOUT WHETHER ANY OF THESE DOCUMENTS ARE CONFIDENTIAL BY LAW, PLEASE CONTACT A BOER ATTORNEY.

- The written record of the discipline, including any and all attachments
- Any investigatory report with attachments
- Any letters of complaint or support for the grievant relating to the matter
- Any affidavits or statements from witnesses or expert witnesses
- All notes taken at investigatory interviews as well as any tape recordings or video tapes of investigatory interviews and transcripts if made
- Every document, computer disc, or file reviewed as part of the investigation including records, reports, e-mail etc.
- Any law, administrative rule, Civil Service bulletin, Employee Relations bulletin, policy, departmental SOP relevant
- Any physical evidence reviewed as part of the investigation
- Official copies of any relevant court or police documents
- Any previous disciplines in employee's personnel file
- Employee performance appraisals reviewed in determining appropriate penalty
- ALL correspondence with grievant relating to the matter for which the grievant was disciplined, including but not limited to:

notice of complaint
letter placing employee on leave
scheduling of meetings/ interviews

- Entire grievance history

If the grievance is appealed to the Bureau of Employee Relations, a copy of the documents should also be provided to the Step 3 hearing officer at the hearing.

Bear in mind that the Unions are entitled to request copies of all relevant records, documents and other materials unless they are confidential.¹ Note that this right does not extend to requests to the agency for written answers to questions propounded by the Union - - but, if there is a preexisting document which would answer these questions, please furnish the Union with a copy.

¹In some circumstances, even confidential documents must be provided to the Union. Only the Bureau of Employee Relations has the authority to request the Director of the Bureau of Human Resources to make that determination, however.

UNION ACCESS TO INFORMATION IN CONTRACT INTERPRETATION CASES

This policy is established to clarify and make uniform the State's policy on the production of documents in contract interpretation cases, and should be followed in all such cases.

The following documents should be released to the Union in contract interpretation grievances when the specific documents or "all relevant documents" are requested after a grievance has been filed:

IF YOU HAVE A QUESTION ABOUT THE APPROPRIATENESS OF RELEASING A PARTICULAR DOCUMENTS TO THE UNION, OR IF THERE IS ANY QUESTION ABOUT WHETHER ANY OF THESE DOCUMENTS ARE CONFIDENTIAL BY LAW, PLEASE CONTACT A BOER ATTORNEY.

- Every document, record, computer disc, or file or physical evidence containing information relevant to the issue being grieved, including records, reports, memos, e-mail, etc.
- Any relevant law, administrative rule, Civil Service bulletin, Employee Relations bulletin, policy etc. reviewed and relied on
- Any departmental policy or SOP's relevant to the issue being grieved
- Any relevant bargaining history you are aware of
- Any documents containing evidence of any past practice relevant to the issue being grieved
- Any prior agreements or sidebar agreements having any potential bearing on the issue being grieved.
- Any and all other relevant documents or materials.
- ALL correspondence with grievant relating to the matter
- Entire grievance history including any postponements, scheduling letters etc.

If the grievance is appealed to the Bureau of Employee Relations, a copy of the documents should also be provided to the Step 3 hearing officer at the hearing.

Bear in mind that the Unions are entitled to request copies of all relevant records, documents and other materials unless they are confidential.² Note that this right does not extend to requests to the agency for written answers to questions propounded by the Union - - but, if there is a pre-existing document which would answer theses questions, please furnish the Union with a copy.

²In some circumstances, even confidential documents must be provided to the Union. Only the Bureau of Employee Relations has the authority to request the Director of the Bureau of Human Resources to make that determination, however.

Angus S. King, Jr.
Governor

Kenneth A. Walo
Director

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Employee Relations

Telephone (207) 287-4447
FAX (207) 287-4452 TDD (207) 287-4537

No.: OSER-

Date:

SUBJECT:

TO: All Holders of Employee Relations Manual

FROM: Lanning S. Mosher, Director
